

# **DEPARTMENT OF ADMINISTRATION**

## **RISK MANAGEMENT PROGRAM**

### **Risk Management and Tort Defense Division**

1625 11<sup>TH</sup> Avenue, Middle Floor

P.O. Box 200124

Helena, MT 59620-0124

PHONE: (406) 444-2421

FAX:(406)444-2592

**Revised 1/1/01**

# **PREFACE**

Every agency of Montana State Government is subject to risk. (Risk is an act, activity, or asset, which presents a potential for loss.) Risk management plays a vital role in minimizing and controlling the adverse effects of incidental loss such as employee injury, legal liability, or property damage to state resources.

This policy and procedures manual contains important risk management information. For purposes of this manual, the "state" means the State of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality thereof, and is hereinafter referred to as "state", "participant", or "state participant".

The manual is written on behalf of Montana state government to outline what insurance coverages and risk management services are provided. It is to assist state participants in ensuring a safer, more efficient work place through risk identification, risk analysis, and risk control. Please read this information carefully. Failure to follow the procedures provided in this manual may result in inadequate protection for participant risks.

In order to avoid unnecessary and inefficient purchase of insurance, participants desiring to purchase or cancel optional or supplemental coverages not specified in this manual must first coordinate the purchase or cancellation through the Department of Administration, Risk Management and Tort Defense Division as required under § 2-9-201, MCA. Copies of all participant insurance policies should be sent to and will be maintained by the Risk Management and Tort Defense Division.

Each participant of Montana State Government should maintain a copy of this manual. Additional copies of all or a portion of this manual are available from the participant risk management representative or the Risk Management and Tort Defense Division. The policies and procedures contained herein are subject to change and updates will be provided as necessary. This program and all portions thereof are effective January 1, 2001 unless otherwise specified.

Dear State Employee:

Welcome to the State of Montana Risk Management Program. This program has been written in accordance with state law and has been implemented on behalf of your department, agency, commission or board, and its employees.

I believe that risk management has an important place in state government. In the past five years, state agencies have spent over \$20 million in resolving losses stemming from tort liability, employee injury, and property damage. These losses are draining tax dollars from much needed services and programs.

Following the policies and procedures outlined in this document will assure that the activities and actions of state employees are adequately covered by insurance. Additionally, a systematic and organized approach to managing risks through loss prevention and aggressive legal defense will reduce the conditions and practices that contribute to physical or financial loss.

If risk management is to have any priority, state managers and employees must create it. We must be accountable for losses that could have been prevented or controlled but weren't. **LOSSES DON'T JUST HAPPEN; THEY ARE CAUSED!**

I personally encourage all employees to become familiar with this document and to comply with the responsibilities as outlined.

**MANAGING THE DAY-TO-DAY RISKS ASSOCIATED WITH THE OPERATION OF STATE GOVERNMENT IS EVERYBODY'S RESPONSIBILITY.**

Sincerely,

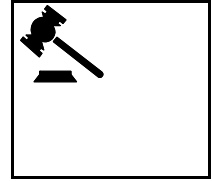
Judy Martz  
Governor

# TABLE OF CONTENTS

<b><u>Section</u></b>	<b><u>Page</u></b>
<b>PREFACE. ....</b>	<b>i</b>
<b>GOVERNOR’S MESSAGE.....</b>	<b>ii</b>
<b>TABLE OF CONTENTS.....</b>	<b>iii</b>
<b>I. PURPOSE &amp; MISSION.....</b>	<b>1</b>
<b>II. PERSONNEL.....</b>	<b>2</b>
<b>III. DEFINITIONS.....</b>	<b>3</b>
<b>IV. WHAT IS RISK MANAGEMENT</b>	
<b>RISK FINANCING. ....</b>	<b>8</b>
<b>RISK CONTROL. ....</b>	<b>9</b>
<b>V. INSURANCE</b>	
<b>INSURANCE PROCUREMENT.....</b>	<b>11</b>
<b>CERTIFICATES OF INSURANCE.....</b>	<b>11</b>
<b>INSURANCE COVERAGE SPECIFICATIONS.....</b>	<b>12</b>
<b>SUMMARY OF MAJOR INSURANCE COVERAGE.....</b>	<b>13</b>
<b>AVIATION.....</b>	<b>14</b>
<b>BOILER &amp; MACHINERY.....</b>	<b>15</b>
<b>CRIME.....</b>	<b>16</b>
<b>FINE ARTS.....</b>	<b>17</b>
<b>PROPERTY.....</b>	<b>18</b>
<b>TORT .....</b>	<b>21</b>
<b>VEHICLE.....</b>	<b>22</b>
<b>WORKERS’ COMPENSATION.....</b>	<b>23</b>
<b>VI. RISK MANAGEMENT PLAN</b>	
<b>PURPOSE .....</b>	<b>24</b>
<b>AUTHORITY .....</b>	<b>24</b>
<b>APPLICABILITY .....</b>	<b>24</b>
<b>OBJECTIVE .....</b>	<b>24</b>
<b>ORGANIZATION AND RESPONSIBILITIES.....</b>	<b>24</b>
<b>DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION.....</b>	<b>24</b>
<b>RISK MANAGEMENT AND TORT DEFENSE DIVISION.....</b>	<b>25</b>
<b>DIRECTORS OF PARTICIPATING AGENCIES .....</b>	<b>26</b>
<b>RISK MANAGEMENT REPRESENTATIVES.....</b>	<b>26</b>
<b>RISK MANAGEMENT ADVISORY COUNCIL.....</b>	<b>27</b>

	INSURANCE, RETENTION, AND CONTRACTUAL TRANSFER.....	28
	COMPREHENSIVE INSURANCE PLAN .....	28
	RISK RETENTION.....	29
	CONTRACTUAL TRANSFER.....	30
	COST ALLOCATION.....	32
VII.	CLAIMS ADMINISTRATION.....	34
	OVERVIEW .....	34
	PROTECTION OF ASSETS.....	34
	CLAIMS REPORTING.....	34
	CLAIMS ADJUSTMENT.....	36
	PROPERTY CLAIMS AND LOSS SETTLEMENTS.....	38
	VALUATION.....	39
	SUBROGATION .....	40
	CLAIMS PAYMENT.....	40
	BUT I STILL HAVE A QUESTION!.....	42
VIII.	TORT DEFENSE.....	45
IX.	RISK EXPOSURE REPORTING.....	46
	RISK EXPOSURE REPORTING INSTRUCTIONS.....	46
	GENERAL LIABILITY AND CRIME.....	47
	BURGLARY AND THEFT .....	48
	AUTO LIABILITY .....	49
	COMPREHENSIVE/COLLISION.....	50
	VEHICLE MILEAGE.....	52
	REGISTERED WATERCRAFT .....	52
	COMMERCIAL PROPERTY .....	52
	BOILER AND MACHINERY .....	58
	AVIATION.....	59
	FINE ARTS.....	59
	OTHER COVERAGES .....	60
X.	BILLING PROCEDURES.....	62
XI.	APPENDICES.....	A
XII.	BULLETINS.....	B
XIII.	CONTRACTS.....	C
XIV.	SUPPLEMENTAL POLICIES.....	D
XV.	OTHER.....	E

# CHAPTER I.



## PURPOSE & MISSION Risk Management and Tort Defense Division

As a result of actions taken during the 1972 Constitutional Convention, Article II, Section 18 of the Montana Constitution was modified to abolish the State of Montana's immunity from lawsuit. Legislation enacted subsequent to the 1972 Constitutional Convention provided for the establishment of what today is known as the Risk Management and Tort Defense Division.

The Risk Management and Tort Defense Division defends state employees against tort actions and provides risk management and claims administration services, to state participants, in accordance with Title 2, Chapter 9 (Parts 1 through 3), Montana Codes Annotated (MCA).

The division operates on a legislatively appropriated proprietary account with funding derived from charges to state participants for insurance services. The division also receives revenues from investment earnings on the self-insurance fund. Rates for property and casualty protection for all participants are legislatively approved each fiscal year.

The Tort Claims Act found in Title 2, Chapter 9, Montana Codes Annotated (MCA), authorizes the Department of Administration to set up and administer a comprehensive and centrally administered property and casualty insurance plan. This plan includes providing commercial and self-insurance programs for state participants. The act also allows the Department of Administration to accumulate and administer a fund, which is statutorily appropriated for the payment of claims, and to apportion costs to participants.

The **mission** of the Risk Management and Tort Defense Division of the Department of Administration is to provide cost effective and comprehensive insurance coverage and risk management services, and to protect and defend the State of Montana against losses stemming from property and casualty claims.

The **philosophy** of Risk Management and Tort Defense is to investigate, identify, and resolve as quickly as possible, claims and legal cases that have merit. The division prepares the remaining cases for summary judgment or final resolution at trial. In order to accomplish this mission, the division will achieve the following:

- Where feasible, provide cost effective commercial or self-insurance protection to state participants.
- Provide cost effective, quality legal assistance to state defendants through the use of either staff counsel; agency legal services counsel, or contracted counsel.
- Promote the development of risk management principles and techniques through consultation with state participants.
- Serve as a resource in resolving risk management and tort liability defense issues for the protection of state assets and resources.
- Seek timely and cost effective resolution of all property and casualty claims filed against the state.

## CHAPTER II.

### PERSONNEL

Risk Management and Tort Defense Division  
Department of Administration  
1625 11th Avenue, Middle Floor  
P.O. Box 200124  
Helena, Montana 59620-0124  
(406) 444-2421  
FAX (406) 444-2592

---

For assistance in the following functional areas, please refer to the departmental contacts indicated in the right hand column:

#### **Risk Management**

Insurance	Risk Finance Specialist/Administrator
Loss Prevention/Safety	Administrator/Risk Analyst
Claims Management	Sr. Claims Specialist/Claims Specialist/Administrator
Loss Reporting	Claims Specialist
Cost Allocation	Administrator/Risk Analyst

#### **Legal**

Tort Defense	Chief Defense Counsel/Associate Counsel
Legal Investigation	Legal Investigator(s)

#### **Other Staff Contacts**

Participant Billing	Administrative Assistant
Clerical Support	Administrative Assistant
	Legal Secretary

# CHAPTER III.

## DEFINITIONS

Definitions cited below reference statute, overlying commercial insurance policy language, or are generally accepted insurance definitions. Participants with questions regarding definitions or coverages should contact the Risk Management and Tort Defense Division.

1. **Actual cash value** is the historical cost to replace a damaged property less its accumulated depreciation on that property.
2. **Advisory capacity** §2-15-102, MCA, means furnishing advice, gathering information, making recommendations, and performing such other activities as may be necessary to comply with federal funding requirements and does not mean administering a program or function or setting policy.
3. **Appraisals** mean a documented valuation conforming to normal or recognized standards for commercial appraisals of similar items, including at least an adequate description of the item, its value, date of value, identification of the appraiser, their qualifications, and the appraiser's signature.
4. **Bodily Injury** §2-9-101, MCA, means bodily injury, sickness, or disease sustained by any person which occurs during the policy period, including death.
5. **Certificate of Insurance** - Proof of insurance.
6. **Claim** §2-9-101, MCA, means any claim against a governmental entity, for money damages only, which any person is legally entitled to recover as damages because of personal injury or property damage caused by a negligent act or wrongful act or omission committed by any employee of the governmental entity while acting within the scope of his/her employment.
7. **Deductible Reserve** §2-9-202(2), MCA, The Department of Administration is authorized to charge individual state participants an amount equal to the cost of a full-coverage insurance plan until such time as a deductible reserve is established. In each subsequent year, the Department of Administration may charge a sufficient amount over the actual cost of the deductible insurance to replenish such deductible reserves. This reserve will be used to pay claims, which fall under a commercial property insurance deductible.
8. **Director** For purposes of this policy and procedure manual means a participant head specifically referred to as a director in this manual.
9. **Employee** §2-9-101, MCA, means an officer, employee, or servant of a governmental entity,



including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity temporarily or permanently with or without compensation, but the term employee shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity.

10. **Expendable Property** means property intended to be consumed or used within a year. Example: Inventory.
11. **Exposure** means an activity or asset of the state, which is subject to loss.
12. **Fine Arts** include the following:
  - Historic items such as original papers, artifacts, memorabilia, etc.
  - Collectibles. Their high market value is due to their popularity. They are held for appreciation and transfer of wealth.
  - Works of Art. These include art bought, as the participant and art on loan to the participant for display own one percent of building cost, other than.
13. **FTE** (full time equivalent), used to describe employee exposures. One FTE is defined as an employee who works 2,000 hours per year.
14. **Governmental Entity** §2-9-101, MCA, means and includes the state and political subdivisions as herein defined.
15. **Inland Marine** coverage is property insurance coverage for property that cannot be conveniently or reasonably confined to a fixed location. Property in transit over land and certain movable property have traditionally been covered by inland marine policies. Examples: aerial cameras, electronic data processing equipment, truck cargo, and pavement test equipment.
16. **Insured** means the State of Montana and its employees. For purposes of vehicle liability coverage, insurance only applies to a state employee if he/she is driving a vehicle in the scope of duty.
17. **Liability** is a legal obligation alleged against the state by a third party. Liability includes the activities of insured state entities and not direct damage to or loss of property owned by the insured entity.
18. **Loss** is defined as any physical or financial loss stemming from property, liability, inland marine, fine arts, employee dishonesty, and all other exposures, which result in property

damage or bodily injury and/or result in legal liability.

19. **Market Value** is the price that a piece of property would sell for in the present market. It is the price that a willing buyer would pay for the property.
20. **Mobile Equipment** means a land vehicle, to include machinery or any apparatus attached thereto, whether or not self-propelled, which is not subject to motor vehicle registration, maintained for use exclusively on premises owned by or rented to the State of Montana, including the rights-of-way immediately adjoining such premises, designed for use principally on off-public roads or designed and maintained for the sole purpose of affording mobility to equipment.
21. **Mysterious Disappearance** means any of the following:
  - The item was not in a known place at a known time when the loss occurred.
  - There is no physical evidence of theft.
  - The item is merely missing in an inventory.
  - The facts suggest that a small item was merely mislaid or lost.
22. **Occurrence** refers to personal injury or property damage resulting from a series of acts or omissions. It can mean acting or failing to act within the scope of one's employment. It is also an accident, including continuous or repeated exposure to conditions, which result in bodily injury or property damage, neither expected nor intended from the standpoint of the insured.  
  
Example: A snowplow driver is operating his vehicle too fast and slides out of control while rounding an icy mountain curve. He crashes into oncoming traffic and causes damage to the other vehicle, and bodily injury to its occupants.
23. **Personal Injury** §2-9-101, MCA, means any injury sustained by any person to include bodily injury, property/monetary damages, and damage to reputation.
24. **Property** means real and personal property as defined in this chapter. It includes property, under control of the state, in which the state has an insurable interest.
25. **Property Damage** means the loss of use of tangible property including personal and real property.
26. **Personal Property** includes all property other than real property and can be classified as either tangible or intangible. Personal property also may be owned or merely in a person's possession. It includes all moveable things. Examples are merchandise, furniture, goods,

moveable machinery, tools, equipment and supplies.

27. **Real Property** means land and all buildings, structures and improvements. It includes fixtures erected on, above or under grade. The state must hold title to, or control the real property through a lease/purchase, or installment purchase contract, mortgage or lien. Real property includes artwork permanently built into and part of buildings. Real property does not include paving, roadways, tunnels, bridges, bike paths, sidewalks, timber, highway signs, traffic signals or retaining walls. It also excludes structures and devices related to these.
28. **Replacement Cost** means the estimated full cost to replace or restore the property to its pre-loss condition with items or materials of like kind and quality. For more detailed meaning see the Claims and Loss Settlements section (Self-Insurance Coverages).
29. **Research Data and Products** means property that cannot be replaced except by repeating all or part of the projects, the research, breeding or other work, which produced them.
30. **Risk Management** is the process of managing, organizing, and controlling resources so as to prevent or minimize the adverse effects of loss. The term also means the consolidated and centrally administered system for: 1) The coordination of risk management activities between state participants and the Department of Administration, 2) the acquisition through the Risk Management Division of property, casualty, and liability insurance, and 3) the elimination, reduction, and minimization of all risks through participant sponsored programs or those offered by the Risk Management and Tort Defense Division.
31. **Risk Exposure Data** means any data originating from state participants and requested by the Risk Management and Tort Defense Division for purposes of Insurance Administration.
32. **Risk Exposure Reports** means the reporting forms participants must use to report insurable items to the Risk Management and Tort Defense Division. Participants are required to report insurable items that they possess upon request each year. Participants are not asked to report property that insurance does not cover.
33. **State** §2-9-101, MCA, means the State of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality thereof. **For purposes of this procedures manual, state is hereinafter referred to as "state", "state participant", or "participant".**
34. **Stated Value** means the amount of property insurance scheduled in a policy, which is not subject to any co-insurance requirement in the event of a loss. The amount scheduled is the amount of insurance available in the event of a loss as requested. The stated value of the loss exposure as reported by the participant should not exceed the greater of its actual cash value

or replacement cost.

- 35. **Tort** means a wrongful act, which results in injury to another person, or to another person's property, person, or reputation.
- 36. **Vehicle** means a land motor vehicle, semi-trailer, snowplow or other vehicle designed for travel on public roads, to include any machinery or apparatus attached thereto. It also includes some mobile equipment with the existence of prior agreements with the Risk Management and Tort Defense Division.
- 37. **Volunteer** means a person who, of his or her own free will, provides goods and services without any financial gain.

# CHAPTER IV.

## WHAT IS RISK MANAGEMENT?

Risk management is a process of managing, organizing, and controlling resources and activities in order to minimize the adverse effects of any loss.

There are four basic types of losses that state managers, supervisors, and employees should be aware of. These risks are not mutually exclusive they are interrelated. Many accidents and claims involve losses in several risk areas.

- **Damage to Property.** Accidental loss or damage to state property such as buildings, boilers, vehicles, and heavy machinery.
- **Liability to Others.** The risk of legal liability to others resulting from injuries to persons and damage to their property or person.
- **Loss of Income or Increased Costs.** This is a risk that is often overlooked. Many state participants operate revenue-producing facilities. Stadiums, gymnasiums, prisons and fairgrounds are examples. If these facilities are destroyed or damaged there may be a significant loss of income. Increased costs might include the cost of cleaning up or repair, training replacements, overtime, supervision, etc.
- **Worker's Compensation Claims.** These claims are resultant from accidents at work which result in employee injury. The State Compensation Insurance Fund handles worker's compensation claims.

Losses typically stem from a variety of causes. (A cause of loss is a situation or condition, which may create a loss.) Examples: **Natural Causes of Loss** - Lightning, flood, windstorm, or weather can create property losses. **Human Causes of Loss** - Theft, arson, negligent acts of omission or commission may result in property losses or legal liability.

Losses may be caused by unsafe acts or unsafe conditions. Examples: Unsafe Acts - 1) The improper operation of a snowplow which damages a private vehicle. 2) State workers on a building scaffold have no warning signs and drop an object on an innocent pedestrian. Unsafe Conditions - 1) Slippery road conditions which result in a car collision. 2) Poor lighting of a stairwell and no handrails causes a serious injury to a member of the public attending a university play.

**LOSSES DO NOT JUST HAPPEN. THEY ARE CAUSED. SINCE, IN MOST CASES THE CAUSES ARE KNOWN, LOSSES CAN BE PREVENTED.**

The risk management process involves five basic steps:

- A. Risk Identification and Analysis: Identifying the services and assets that could cause a financial loss.
- B. Risk Treatment: Examining alternatives to handle the risks by eliminating loss exposures and minimizing effects on your participant before or after a loss occurs, as well as exploring ways to cover a loss financially. Risk treatment of loss involves two basic approaches, which include the basic tools of risk management:

## 1. **RISK FINANCING**

- Risk Transfer. If a risk cannot be avoided, it can often be transferred to others. One common way to transfer risk is to buy insurance. In purchasing insurance, the risk of unpredictable loss is relieved by making scheduled premium payments. Another way to transfer risk to third parties is through contractual arrangements.
- Retention. It may be decided to pay for losses out of current operations by self-insuring or retaining them even though other methods of handling the risk are available. For example, the State of Montana currently retains losses on its state owned vehicles for collisions rather than purchase commercial insurance. This is done because in some cases retention is more efficient and economical.

## 2. **RISK CONTROL**

- Avoidance. Risk may be avoided by refusing to assume it. Obviously, it is not always possible to completely avoid risks, but the possibility should not be overlooked.
- Loss Prevention and Reduction. When risk cannot be avoided, it often can be reduced and the severity of loss minimized. For example, fire-resistant construction reduces the chances of a fire.

Loss Prevention and loss reduction are primary responsibilities of management. These responsibilities cannot be delegated. If loss prevention is to have any priority, state managers have to create it. Managers and employees should be accountable for losses, which could have been prevented or controlled, but weren't.

- C. Selection: Determining which risk treatment technique or combination of techniques is most appropriate.

- D. Implementation: Putting the selected risk management programs in place.
- E. Program Evaluation: Monitoring results of risk management programs to make sure they are effective.

When a problem arises and you are concerned about what risk management tool to use in what way, first contact the Risk Management and Tort Defense Division of the Department of Administration. The problem may have already been addressed elsewhere in the state. You may avoid duplication of effort and cost.

### **WHY MANAGE RISKS?**

The benefits of risk management are many! First and foremost, an effective program of risk management will assure that damages resultant from tort or other liability or property and casualty loss are minimized and that your physical and human resources are protected.

Secondly, a healthy and productive work environment results in improved morale and enhances efficiency.

Finally, participants may actually reduce their liability premiums by lowering their losses. Each participant's premiums are dependent on the number and amount of losses, which are paid out of the self-insurance fund (see Risk Management Plan - Cost Allocation).

# CHAPTER V.

## INSURANCE

A summary of major self-insurance and commercial coverages and procedures has been provided in this chapter. If you have any questions, please contact the Risk Management and Tort Defense Division, Department of Administration.

### A. INSURANCE PROCUREMENT

1. The Risk Management and Tort Defense Division will procure insurance that is deemed necessary, prudent, and cost-effective. State agencies should not purchase insurance without contacting the Risk Management and Tort Defense Division first.
2. Coverages are periodically procured on a competitive bid basis and are subject to change. Risk Management and Tort Defense will update the insurance coverages and apprise state participants as various coverages are procured.
3. If participants do not have insurance coverage for a specific exposure as indicated in this chapter or the semi-annual report and have exposures which may necessitate insurance coverage, please contact Risk Management and Tort Defense.
4. Participants who desire coverage shall complete a copy of the **Request for Insurance Services Form** (see appendices) or call Risk Management and Tort Defense. Please assure that the form is completed and signed by the appropriate parties as indicated. Use additional sheets of paper, if necessary.
5. Because some coverage is more difficult to obtain than others, please allow 60 days for procurement. Participants who cancel commercial insurance policies prior to policy expiration may be assessed a penalty by the commercial insurer in accordance with policy provisions.

### B. CERTIFICATES OF INSURANCE

1. State participants are often requested to furnish proof of insurance for liability or property coverage to satisfy contractors or other parties.
2. Managers, supervisors, and employees ultimately have responsibility for procuring a **Certificate of Insurance** (see appendices or website) when it is required by law or by contract. Portions of the **Certificate of Insurance** may be completed electronically and then sent to the Risk Management & Tort Defense for signature and approval. Most state owned motor pool vehicles would have an **In Case of Accident Form** in the glove box, which provides proof of insurance. The **In Case of Accident Form** may also be found on the division's website, however, this form should only be used to collect information at the scene of the accident for preparation of the Report of Incident Form.



3. For leased/loaned or non-motor pool vehicles, the employee or supervisor should procure an **In Case of Accident Form** (see the division's website) or assure that one is in the vehicle. **In Case of Accident Forms** for vehicles are available from Central Stores. All other **Certificates of Insurance** are available from the Risk Management and Tort Defense Division.
4. **Certificates of Insurance** are not available for activities or insureds that Risk Management and Tort Defense do not insure. Example: State employees using personal vehicles must carry evidence or proof of their own personal vehicle insurance since this insurance coverage is primary.

The process for obtaining **Certificate of Insurance** is as follows:

- **Certificates of Insurance** for those coverages that are commercially insured for the State of Montana require a written request (the request may also be submitted electronically through the division's website) at least 30 days prior to when the certificate is needed. The Risk Management and Tort Defense Division will contact the insurance company to arrange for the provision of a certificate.
- **Certificates of Insurance** for all self-insurance coverages insured through the self-insurance fund will be provided upon written request to Risk Management and Tort Defense, Department of Administration or by completion of the electronic certificate of insurance on the division's website and submission to the division. Please allow one-week lead-time for the completion of a request.
- Each participant desiring a certificate should be prepared to provide information verbally, electronically, or in writing, as requested on the form. The form will be signed and dated by the risk manager and returned to the requesting participant within a week.

## C. **INSURANCE COVERAGE SPECIFICATIONS**

The policies described in this section cover loss subject to the conditions of coverage, covered locations, causes, activities, deductibles, and limits as indicated:

1. **Notification**: The affected state participant shall notify Risk Management and Tort Defense, within 5 business days with full information relative to the nature of each accident and claim. Claims that are not reported within 60 days (see claims section for reporting requirements) thereafter may be denied.
2. **Assignment**: The interest of the insured shall not be assignable to any other person or entity.
3. **Defense**: The employee and the participant shall cooperate reasonably in the defense of the case.
4. **Risk Exposure Data**: The participant must provide annual **Risk Exposure**

**Reporting Forms** as required by Risk Management and Tort Defense and the state's commercial insurers to secure coverage.

5. **Remittance**: Premium, co-insurance, and deductible notices information will be sent to each state participant at the beginning of each biennium. Each insured shall remit billed liability insurance premiums to Risk Management and Tort Defense by September 1st of each fiscal year.
6. **Renewal**: All self-insurance policies are continuous unless notice is otherwise provided to participants. Self-insurance policies are subject to renewal on a biennial basis. All commercial insurance policies and premiums are subject to renewal or revision annually. Premium notices will be directed to each participant prior to the end of each biennium to assist with budget preparation for the following biennium.
7. **Territory**: Generally, coverage is provided for the State of Montana and its employees anywhere in the United States of America, its territories or possessions, or Canada. For coverage outside of these territories, please contact the Risk Management & Tort Defense Division.

---

## SUMMARY OF MAJOR INSURANCE COVERAGES

A summary of major insurance coverages has been provided in the next few pages. These summaries are not to be used in deciding coverage. Coverage may vary by participant and exposure. The examples given in this section come from real events. They are meant to aid understanding. They do not alter or limit exclusions.

Please review this section carefully. Participants who have purchased insurance duplicate to coverage already provided in this manual are responsible to cancel this coverage within a reasonable period of time. Participants with questions about whether a loss or exposure is duplicate, or whether it is covered or excluded should contact the Risk Management and Tort Defense Division. The division will interpret and apply this policy manual to your participant's exposures and assist you in obtaining additional coverage where required by law, or when it is necessary and cost-effective to do so.

---

## AVIATION INSURANCE (§2-9-201, MCA)

- A. **Insurer:** Intercargo Insurance Company - Fixed wing and rotary craft.  
Intercargo Insurance Company - Airports.
- B. **Agent:** Mountain Air
- C. **Term:** July 1, 2000 to June 30, 2003 subject to annual renewal  
for two additional years.
- D. **Property Covered:** Various helicopter, aircraft, and fixed wing craft. Most property damage to aircraft. Leica Wild Aerial Camera while attached to or temporarily removed from the 1968 Aerocommander 680. **Risk Exposure Report Forms** must be updated and submitted by April 15<sup>th</sup> of each fiscal year.
- E. **Liability Covered:** All risk and hull coverage, non-ownership included for motor craft. Bodily injury and passenger coverage. Airport liability coverage, hangarkeeper's liability and other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- F. **Cause of Loss Covered:** Most risks of property and liability loss including all types of accidents. Other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- G. **Cause of Loss Excluded:** Wear and tear, mechanical breakdown, tires, seaplane, war, radiation, embezzlement, conversion or secretion. Other activities that are not performed within the course and scope of employment as defined in §2-9-305, MCA.
- H. **Valuation of Property:** Replacement cost based on the stated value of the craft, including upgrades.
- I. **Limit:** Varies by policy but basically includes:
- |                                  |                             |
|----------------------------------|-----------------------------|
| Airport Liability                | \$5 million per occurrence  |
| Aircraft Liability               | \$10 million per occurrence |
| Guest Voluntary Settlement (GVS) | \$ 75,000                   |
| Hull Coverage                    | As per schedule             |
- J. **Deductible:** \$1,500,000 per occurrence for both aircraft and airports liability there is no agency deductible. \$1,000 per occurrence hull (not-in-motion) and 5% of insured value (in-motion) hull.
-

## **BOILERS & MACHINERY INSURANCE (§2-9-201, MCA)**

- A. **Insurer:** Traveler's Insurance Company
- B. **Agent:** Willis of Seattle
- C. **Term:** July 1, 2000 to June 30, 2003 subject to annual renewal for two additional years.
- D. **Property Covered:** All boilers, fired vessels, and electric or steam generators owned by state participants. All reasonable costs to make temporary repairs expedite permanent repairs; and expedite permanent replacement. Automatic coverage for newly acquired locations for 90 days.

Insurable objects purchased during the fiscal year will be automatically covered subject to policy limits and conditions, but **Risk Exposure Data Reporting Forms** must be updated at the beginning of the next fiscal year.
- E. **Liability Covered:** Defense against claims or lawsuits arising from property damage to third parties. Includes bond coverage to release attachments within the limits of insurance. Other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- F. **Cause of Loss Covered:** Sudden and accidental breakdown of insured objects which causes physical damage requiring repair or replacement. Other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- G. **Cause of Loss Excluded:** Ordinances or laws, nuclear hazards, war and military action, accidents which occur during testing, business interruption, power, light, heat, limitations on hazardous substances. Other activities that are not performed within the course and scope of employment as defined in §2-9-305, MCA.
- H. **Valuation of Property:** Replacement cost by stated value up to the policy limits. The cost at the time of the accident to repair or replace the property with property of like kind, capacity, size, and quality.
- I. **Limit:** Equipment breakdown: \$20,200,000. Property Damage: \$15,000,000. Business income: \$4,200,000. Extra Expense: \$1,000,000. Computer equipment: \$1,000,000. Demolition: \$500,000. Expediting expense \$500,000. Hazardous substances: \$500,000.
- J. **Deductible:** \$100,000 per occurrence. Each participant pays first \$1,000 per loss.
- K. **General Conditions:** Definitions, loss procedures and duties of parties are explained.

---

## **CRIME INSURANCE (§2-9-201, MCA)**

- A. **Insurer:** Great American Insurance Company
- B. **Agent:** Willis of Seattle.
- C. **Term:** July 1, 2000 to June 30, 2003 subject to annual renewal for two additional years.
- D. **Property Covered:** Money, securities, other property.
- E. **Liability Covered:** Defense against claims or lawsuits arising from property damage to third parties.
- F. **Cause of Loss Covered:** Employee dishonesty, fraud, embezzlement, electronic fraud.
- G. **Cause of Loss Excluded:** Loss resulting from seizure or destruction of by order of governmental authority, nuclear, war, tortuous conduct, violations of civil rights, inventory shortages dependent on inventory or profit/loss computation.
- H. **Valuation of Property:** Face value of money, securities of other property lost in U.S. currency at the rate of exchange on the day the loss was discovered. Replacement in kind of bonds and securities with certain specifications. Actual cash value or replacement cost.
- I. **Limit:** \$2,000,000 per occurrence all employees.
- J. **Deductible:** \$50,000 per occurrence. Each participant pays first \$1,000 per loss.
- K. **General Conditions:** Definitions, rules of loss discovery, duties of parties, valuation of loss and similar matters are explained.

---

## FINE ARTS INSURANCE (§2-9-201, MCA)

- A. **Insurer:** AXA-Art Insurance Corporation  
ACE Fire Underwriter's Insurance Company
- B. **Agent:** Willis of Seattle
- C. **Term:** July 1, 2000 to June 30, 2003 subject to annual renewal  
for two additional years.
- D. **Property Covered:** Paintings, etchings, drawings (including frames, glasses, and shadow boxes), rare books, manuscripts, rigs, tapestries, statuary and other bona fide works of art, of rarity, historic value, or artistic merit, and animatronic objects.
- E. **Liability Covered:** Legal defense and indemnification for bailment of fine arts on loan to the state. Other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- F. **Causes of Loss Covered:** All risks of physical loss or damage from any external cause. Other activities that are performed within the course and scope of employment as defined in §2-9-305, MCA.
- G. **Causes of Loss Excluded:** Wear and tear, gradual deterioration, hostile or warlike action, shipments by mail unless registered first class, nuclear reaction, radiation, or radioactive contamination. Other activities that are not performed within the course and scope of employment as defined in §2-9-305, MCA.
- H. **Valuation of Property:** Market value at the time the loss or damage occurs for state owned fine arts and fine arts on loan to the state.
- I. **Limits:** \$70,000,000 per loss at Capitol Complex premises and \$20,000,000 per loss at any other location. \$60,000,000 aggregate in any one loss or disaster. \$10,000,000 in transit on any one conveyance within the U.S. and Canada. \$10,000,000 for international transportation and exhibition.
- J. **Deductible:** \$100,000 per occurrence property. There is no deductible for liability.
- K. **General Conditions:** Definitions, loss procedures, valuation, appraisal, duties of parties, and similar matters are explained.

~~PROPERTY INSURANCE (§2-9-201, MCA)~~

## **PROPERTY (§2-9-201, MCA)**

- A. **Insurer:** Traveler's Insurance Company
- B. **Agent:** Willis of Seattle
- C. **Term:** July 1, 2000 to June 30, 2003 subject to annual renewal for two additional years.
- D. **Cause of loss Covered:** All risks of loss including fire, explosion, windstorm, hail, riot, smoke, and vandalism. Limits on the amount of coverage for earthquake and flood. Includes extra expense incurred as a result of covered losses.
- E. **Property Covered:** All real and personal property owned by the state or in the care, custody, and control of the state for which the state is liable and has an insurable interest, including requested loss of income/business interruption, and property damage to owned, leased, or loaned state vehicles on state premises (excluding collision and liability). Consideration shall be given to the existence of a written agreement between the participant and the Risk Management and Tort Defense Division, which establishes ownership and control prior to the loss. See definitions of Real and Personal Property under the self-insurance section. Property purchased during the fiscal year will be covered subject to policy limits and conditions, but **Risk Exposure Report Forms** must be updated at the beginning of the next fiscal year and provided by April 15<sup>th</sup> of each fiscal year.
- F. **Perils Excluded:** Limitations on coverage for earth movement, errors and omissions, and flood damage. Also excluded are losses or damages:
1. Caused by laws, ordinances or administrative rules being enforced. Example: Condemnation of a building not because of a fire or similar cause.
  2. Intentionally caused by action officially taken or withheld by the participant. Example: Demolition of buildings.
  3. Due to mysterious disappearance or loss or shortage disclosed on taking inventory or any unexplained loss.
  4. Due to wear and tear or conditions inherent in any type of property which cause it to deteriorate or destroy itself, due to reasonably discoverable rust, corrosion, fungus, decay, insects or vermin, impact damage, forces of nature, cracking, shrinking, expansion, etc.
  5. Due to electrical or mechanical breakdown. Due to loss of electric power, spikes, surges, drops or fluctuations. Due to continuous or repeated seepage of leakage from a plumbing or mechanical system or appliance occurring over a period of weeks.
  6. Damage due to extreme temperature or changes of temperature (except damage to equipment) or changes in relative humidity, all whether atmospheric or not, unless physical damage occurs, not excluded by this policy. Example: Turning down heat

in winter without draining water lines and tanks.

7. Arising more than once out of a cause, which is within a participant's power to correct. Examples: Water damage caused by backup of a drain that is too small. Repeated wind damage to a worn-out roof. Failure to take action to mitigate further loss after a fortuitous event.
8. To property intended for demolition or disposal.
9. Due to flood waters, waves, tide or tidal water, the release of water, overflowing or breaking of man-made or natural bodies of water.
10. To property of certain third parties such as students when the state is not negligent.
11. Due to fraudulent or dishonest act or acts committed in collusion with others.
12. Defects in materials, faulty workmanship, faulty construction, or faulty design.

**G. Property Excluded:** (Not all policy exclusions are listed here.)

1. Land, dams, bridges, docks, piers, wharves.
2. Pavements, roadways, lawns, shrubs, plants.
3. Theft: bullion, precious metals questions, jewelry, watches, silverware, and furs.
4. Motor vehicles, aircraft, watercraft, animals.
5. Currency, deeds, securities, objects of fine art.

**H. Valuation of Property:** Replacement cost for most property.

**I. Limits:** \$2,100,000 per occurrence for all state owned properties. Earth movement: \$100,000,000 per occurrence. Flood: \$50,000,000 per occurrence. Extra expense: \$5,000,000. Errors and omissions: \$1,000,000. Loss of Business Income: 11,262,315. Electronic data processing: \$5,000,000. Transit: \$1,000,000. Debris removal: \$1,000,000. Service Interruption: \$1,000,000.

**J. Deductible:** \$150,000 per occurrence for all risks except earthquake and flood: \$250,000 per occurrence for all risks except earthquake and flood for the Montana State Prison. 8 hour service interruption. Each agency pays the first \$1,000 per occurrence, per loss. Earthquake \$1,000,000 per loss. Flood \$500,000 per occurrence, per loss.

**K. General Conditions:** Includes definitions, valuation procedures, and provisions for other insurance.



---

## **TORT LIABILITY INSURANCE (§2-9-201, 305, MCA)**

- A.     **Insurer:**     **Department of Administration, Risk Management & Tort Defense  
Division**

- B. **Agent:** N/A. The State of Montana is self-insured.
- C. **Term:** Continuous unless otherwise notified.
- D. **Liability Covered:** Defense against claims or lawsuits arising from products, premises, operations, directors and officers, employment practices (except ADA, Human Rights Act, or Government Code of Fair Practices), law enforcement, medical providers, professional acts, and other tort liability (i.e. personal injury or property damage to third parties).
- E. **Agencies Covered:** All state agencies as defined in §2-9-101, MCA.
- F. **Acts Covered:** All negligent acts of state employees provided they are acting in an official capacity on behalf of the state (§2-9-305, MCA).
- G. **Acts Excluded:** Any personal injury or property, which may be covered under a separate worker's compensation, auto, fire, property, or general liability policy. The conduct of the employee constitutes a criminal offense. The conduct upon which a claim is based constitutes oppression, fraud, or malice, or for any other reason does not arise out of the course and scope of employee's employment (§2-9-305, MCA). Liability assumed under contract. The employee failed to cooperate reasonably in the defense of the case. The employee compromised or settled the claim without the consent of the Risk Management & Tort Defense Division.
- H. **Limit:** Statutorily defined at \$750,000 per claim, \$1,500,000 per occurrence (§2-9-108, MCA)
- I. **Deductible:** N/A
- J. **General Conditions:** Definitions, loss procedures, and duties of parties are explained in the policy.

---

## VEHICLE INSURANCE (§2-9-101, 305, MCA)

- A. **Insurer:** Department of Administration, Risk Management & Tort Defense Division
- B. **Agent:** N/A. The State of Montana is self-insured.

- C. **Term:** Continuous unless otherwise notified.
- D. **Liability Covered:** Defense against claims or lawsuits arising from property damage or personal injury to third parties arising from the operation as state vehicles as defined in this program binder (§2-9-305, MCA)
- E. **Agencies Covered:** All state agencies as defined in §2-9-101, MCA.
- F. **Acts Covered:** All negligent acts of state employees provided they arise while using the state vehicle in an official capacity on behalf of the state (§2-9-305, MCA).
- G. **Acts Excluded:** Any personal injury or property, which may be covered under a separate worker's compensation, auto, fire, property, or general liability policy. The conduct of the employee constitutes a criminal offense. The conduct upon which a claim is based constitutes oppression, fraud, or malice, or for any other reason does not arise out of the course and scope of employee's employment (§2-9-305, MCA). Liability assumed under contract. The employee failed to cooperate reasonably in the defense of the case. The employee compromised or settled the claim without the consent of the Risk Management & Tort Defense Division. Hail or other damage to vehicles that are parked (not in operation).
- H. **Comprehensive/Collision Coverage:** Provided request for all state-owned vehicles only upon prior written agreement with the Risk Management & Tort Defense Division.  
Provided free of charge for all rented/leased/loaned vehicles for the first 30 days, including vehicles leased from the Department of Transportation Motor Pool in Helena effective 7/1/01, but excluding all other motor pool vehicles. Provided beyond 30 days for all rented/leased/loaned vehicles, watercraft, and other equipment only upon prior written agreement with the Risk Management & Tort Defense Division.
- I. **Limit:** Statutorily defined at \$750,000 per claim, \$1,500,000 per occurrence for liability (§2-9-108, MCA). For comprehensive/collision coverage the limit is a reasonable determination of the market value (actual cash value) of the vehicle by the Risk Management & Tort Defense Division.
- J. **Deductible:** Not applicable for liability (i.e. personal injury or property damage to third parties. There is a \$250 deductible for comprehensive/collision coverage on state owned or leased vehicles.
- K. **General Conditions:** Definitions, loss procedures and duties of parties are explained in the policy.

---

## WORKER'S COMPENSATION INSURANCE

- A. **Insurer:** State Compensation Insurance fund
- B. **Agent:** Not applicable. However, the Risk Management & Tort Defense Division is responsible for evaluating various workers' compensation plans

annually and with input from agencies selects a plan that is determined to be in the best interests of the state.

- C. **Term:** Annually beginning July 1<sup>st</sup>.
- D. **Activities:** Personal injuries to state employees provided the injury arises from Work related activities.
- E. **Agencies:** State agencies, except the university system.
- F. **Limit:** Statutorily defined.
- G. **Deductible:** Not applicable. There is no deductible.

## CHAPTER VI.

### STATE OF MONTANA RISK MANAGEMENT PLAN

- A. **PURPOSE:** To establish requirements within the State of Montana for all participants to wherever feasible prevent, reduce, or transfer losses stemming from the state's exposure to

property, legal liability, personnel, or revenue losses.

**B. AUTHORITY:** The authority for this program is §2-9-201, MCA and by Executive Order. The program also has the full support and approval of the Governor of the State of Montana and the Legislature.

**C. APPLICABILITY:** To all employees of the State of Montana and its participants. This plan encompasses pure risks assumed by state government in the scope and course of its operations. A pure risk is a risk, which presents a chance of loss but not gain. Examples of pure risks include property damage, liability, fidelity, and inland marine exposures.

Pure risks are not considered to include the deliberately assumed costs of employee group health, life, disability, or workers' compensation benefits, which are administered by other state participants.

**D. OBJECTIVE:** Conservation and preservation of state resources through risk control and/or risk transfer is the major objective. Effective risk management plays a key role in reducing the high costs which the state and its public must bear to pay for losses associated with injury, property loss, legal liability, or loss of income/revenue.

**E. RISK MANAGEMENT ORGANIZATION AND RESPONSIBILITIES:**

1. **DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION:** The Director of the Department of Administration is responsible for monitoring the State of Montana Risk Management Program. To accomplish this, the director shall:

- a. Appoint the Risk Management and Tort Defense Division to be responsible for the program, reporting to the director.
- b. Assure that risk awareness of state managers and employees is an integral part of all state operations.
- c. Encourage all state employees to actively support the risk management program.
- d. Approve loss prevention recommendations, which affect overall State of Montana operations.

2. **RISK MANAGEMENT AND TORT DEFENSE DIVISION:** The Risk Management and Tort Defense Division is responsible for establishing and maintaining the Statewide Risk Management Program. To achieve this end, the division shall accomplish the following:

- a. Draft, distributes, review at least annually, and modify as necessary the State of Montana Risk Management Program.
- b. Provide direction and guidance to the Risk Management Advisory Council.

- c. Promote risk awareness to state participants through the distribution of risk and loss prevention materials, consultation, and training as time and resources permit.
  - d. Coordinate inspections of participants as necessary and deemed appropriate to maintain the insurability of state assets.
  - e. Maintain, compile, and summarize the losses of participants and distribute this information at least quarterly to the Risk Management Advisory Council. This loss data will help to identify trends and problem areas, which require attention.
  - f. Assure that participants investigate all losses as soon as possible. Assure that investigations are thorough enough to identify the root causes of the accident. Work with state participants where feasible to assure that preventative action is taken where feasible to prevent recurrence of the loss.
  - g. Maintain the risk management library for the State of Montana. Provide each participant access to training videotapes and loss prevention materials on a checkout basis.
  - h. Inform the Director of the Department of Administration of risk management problems within state government and the status of the risk management program. Provide the Risk Management Advisory Council, at least annually, with an executive summary of risk management activities.
  - i. Collect risk exposure data and other information from participants in state government to monitor the effectiveness of risk management programs.
  - j. Investigate, evaluate, and resolve all meritorious claims at the lowest possible cost to the state consistent with legal and ethical obligations and the need to establish acceptable precedents.
  - k. Allocate costs of commercial and self-insurance protection to state participants.
  - l. Purchase and administer property/casualty insurance, except employee benefits, in behalf of state agencies. Administer the state workers' compensation contract with the State Compensation Insurance Fund.
3. **DIRECTORS OF PARTICIPATING AGENCIES:** Within his/her area of responsibility each participant director is ultimately responsible for minimizing losses and accidents by encouraging and supporting a program of risk awareness and

risk management. To accomplish this, each director shall:

- a. Identify major areas of loss exposure and assure that loss prevention and control is an integral part of operations, employee training, and supervisory accountability. Assure that work areas are observed by supervisors on a regular basis in order to identify unsafe acts or conditions.
- b. Appoint a Risk Management Representative who will participate in the State Risk Management Advisory Council, oversee the reporting of risk exposure data, chair the agency safety committee, communicate relevant insurance and early-return-to-work issues, and be responsible to the director to implement the Risk Management Program.
- c. Appoint the Risk Management Representative or another designee to be responsible for the distribution and coordination of safety training and loss control information to management and all entities within the participating agency. The Risk Management Representative shall also keep the director informed about significant losses and loss prevention issues.
- d. Forward the name of each new appointee (or other designate should the appointee change) to the Risk Management and Tort Defense Division.
- e. Assure that supervisors and employees investigate accidents and losses immediately after occurrence. Assure that investigations are thorough, and that meaningful preventive action is recommended. Take whatever action is necessary to implement the recommendations to include temporary measures to prevent recurrence while more permanent solutions are being considered.

4. **RISK MANAGEMENT REPRESENTATIVES:** A Risk Management representative for each participant indicated in the executive order will be appointed by the director. These representatives shall:

- a. Coordinate the dissemination of insurance, early-return-to-work, and other risk management information from the Risk Management and Tort Defense Division or the Risk Management Advisory Council to key personnel within the participant and all associated boards, councils, commissions, etc., under the auspices of the participant for supervisory and reporting purposes.
- b. Regularly attend and participate in the State Risk Management Advisory Council. Chair the agency Safety Committee.
- c. Ensure that employees and supervisors to the Risk Management and Tort Defense Division, in accordance with claims reporting policy, report all

losses and procedure using approved reporting forms (see Claims Administration section).

- d. Supplement this manual, as necessary, after submitting proposed changes to the activity and managers and the Risk Management and Tort Defense Division for approval.
- e. Follow-up in a timely manner on recommendations from commercial insurers in order to preserve the insurability of the state's assets.
- f. Assure that risk exposure information is accurate and collected in a timely manner.
- g. Support and encourage loss prevention programs within their respective agency and direct the activities of their safety committee

5. **RISK MANAGEMENT ADVISORY COUNCIL** was created by executive order and consists of one representative from each state participant. The general functions of the committee shall be to:

- a. Make recommendations to the Governor, other elected officials, and department directors on implementation of a) a risk management plan within each instrumentality of state government and, b) risk awareness activities as an integral part of operating procedures.
- b. Serve in an advisory capacity to resolve problems, which may arise with insurance coverage, early-return-to-work or risk management concerns involving protection of state assets and resources.
- c. Disseminate and collect insurance and risk management information from participants in order to maintain and preserve the insurability and viability of state assets.
- d. Review alternatives and makes recommendations for adoption of risk management policies and, when necessary, recommends administrative or legal action.
- e. Support and encourage loss prevention programs within their respective agency and direct the activities of their safety committee.
- f. Coordinate the dissemination of loss information, safety training opportunities and other pertinent information from the Risk Management and Tort Defense Division or the Risk Management Advisory Council to key personnel within their agency.



- g. Assist supervisors in determining what measures are needed to prevent a recurrence of an incident and make appropriate recommendations to include temporary measures to prevent recurrence while more permanent solutions are being considered.
- h. Regularly attend and participate in the Risk Management Advisory Council Meetings.
- i. Collect loss prevention and risk awareness suggestions and ideas from employees for distribution to the Risk Management Advisory Council (see appendix - **Loss Prevention/Safety Suggestion Form**).

## **F. POLICY - INSURANCE, RETENTION, AND CONTRACTUAL TRANSFER**

### **1. COMPREHENSIVE INSURANCE PLAN**

The Risk Management and Tort Defense Division will procure insurance that is deemed necessary, prudent, and cost-effective. The division will purchase insurance or self-insure when:

- a. Required by law or contract.
- b. The amount of the potential loss is too large to be retained.
- c. Commercial insurance is available on acceptable terms.
- d. Insurance can economically provide ancillary services such as inspection, claims handling, or loss prevention, such as provided by the state's commercial property or self-insurance programs.

Participants will identify loss exposures that they wish to have insured. Upon request, Risk Management and Tort Defense will advise participants as to what risks are insurable.

Risk Management and Tort Defense either independently, or upon request, may approve insurance policy limits and deductible levels. The division is authorized to allocate costs and establish deductible reserves.

Participants should appropriately budget for and anticipate projected insurance needs. The Risk Management and Tort Defense Division will typically purchase insurance coverage for participants, and then bill them for the specified coverage within 30 days. Participants are responsible to assure that adequate budget authority for the purchase of new coverages is available and to provide prompt remittance to the division.

## 2. **RISK RETENTION**

Risk retention is the dollar amount of a loss assumed either by participants or paid out of the self-insurance fund that is not covered by commercial insurance.

Loss exposures that are ideally retained are those that are limited in individual size to an amount clearly within the participant's or self-insurance fund's retention capacity; and are unlikely to occur in larger numbers during a short period of time.

State participants and/or the self-insurance fund will retain loss exposures which do not meet the criteria as described in the previous section. The following guidelines shall apply:

- a) Participants retain loss exposures when the potential exposure is small enough to be absorbed. Example: Comprehensive and collision insurance for state owned automobiles.
- b) Participants retain the deductibles on commercial or self-insurance coverages unless Risk Management and Tort Defense specifically participate in the deductible and a prior written agreement is in existence.

For example: State participants retain the first \$1,000 of each property loss and the division satisfies the rest of the deductible before the commercial carrier is obligated. Participants retain all other deductibles on commercial policies procured at their request.

- c) Participants retain uninsurable loss exposures such as damage due to wear and tear, latent defect, inherent vice, rust, rotting, mechanical breakdown, settling, cracking, animals, vermin or rodents, and pollutants.

Example: Water impact damage and wear and tear to a seawall.

The purpose of the self-insurance fund is to finance incidental property and loss exposures. It is not meant to remove each participant's duty to prevent and reduce losses, replace equipment, or properly maintain state owned property.

- d) The self-insurance fund **MAY** pay in whole or in part, uninsured or retained losses on behalf of state participants. Consideration shall be given to the following:
  - an agreement existed with the agency prior to the loss;

- the loss was not foreseeable or expected,
- the participant cannot provide or fulfill a vital service in the absence of indemnification from loss; and
- the loss retention is within the self-insurance fund's capacity.

### 3. **CONTRACTUAL TRANSFER**

This policy is effective for new contracts beginning July 1, 1992. For existing contracts, the policy is effective upon contract renewal.

In its contractual relationships with independent contractors, the State of Montana will transfer liability for services performed under contract to the contractor.

- a. The comprehensive insurance plan is intended to provide insurance for the State of Montana and its employees and not vendors, independent contractors, or other third parties. (Independent contractors, vendors, and third parties shall procure their own insurance).

Only in **exceptional circumstances**, and under **prior written agreement** with the Risk Management and Tort Defense Division, will the division defend and indemnify third parties or independent contractors.

- b. All of the following criteria shall be met before an exception is granted:
  - 1) The service proposed under contract must fulfill or further state purposes and interests and be funded and/or supported by the participant.
  - 2) The proposed service to be provided under contract is unique and difficult to obtain in the absence of state indemnification.
  - 3) The independent contractor is unable to obtain insurance (for reasons other than a poor loss record and/or insurance is cost prohibitive and generally not available for the type of risk exposure proposed under contract).

Participants requesting an exception shall set forth in writing the reasons why the state should insure the independent contractor based on the above criteria. The Risk Management and Tort Defense Division must grant written approval prior to the loss.

- c. Participants entering into contracts with third parties shall require the

contractor to "hold the state harmless" and to **DEFEND** and **INDEMNIFY** the state for any and all causes of action arising from the contractor's negligent execution of the contract.

- d. Participants shall require independent contractors to carry comprehensive general liability insurance coverage (including automobile liability insurance where applicable).

Participants, which are a party to the contract, shall require and maintain proof of independent contractor insurance.

- e. Participants shall require the contractor to carry insurance commensurate with the risk assumed in performance of the contract. This will potentially reduce the state's liability if the contractor, and subsequently the state, is named in a tort action.

For example, a participant should require a construction contractor to carry higher limits of liability insurance than a clerical support contractor because the work performed is inherently riskier to the State of Montana if the contractor is negligent.

- f. Participants shall, where feasible, request the independent contractor to name the participant of the state as an "additional insured". "Additional insured" status is typically granted by the independent contractor's insurer by endorsing the contractor's insurance policy and gives the state added immunity and protection should the contractor or its insurer become insolvent.

Participants shall assure that independent contractor's insurance is primary to the exposures insured under the state contract and not excess to the state's insurance.

Participants with questions about contractor insurance should contact the Risk Management and Tort Defense Division or refer to the Contracts Manual for additional guidelines.

- g. In accordance with §18-4-312, MCA, participants shall require the contractor to provide a contract performance surety bond, with a licensed surety, for contracts in excess of \$10,000.

## **G. RISK MANAGEMENT COST ALLOCATION**

- 1. The State of Montana risk management cost allocation system was developed as a means of distributing the costs of risk among state participants.

It is the philosophy of the Risk Management and Tort Defense Division that each state participant should bear a proportionate share of liability commensurate with their loss experience and exposure. The Risk Management and Tort Defense Division incurs significant expense in the investigation, defense, and settlement of claims and lawsuits. Those participants with higher losses will pay higher insurance premiums. Risk management and insurance costs will be allocated on the basis of each participant's loss experience and exposure.

The rationale behind cost allocation is that of sharing the risk so that no one participant is expected to bear the burden of paying total costs of unexpected losses from their authorized budgets.

2. At present, Risk Management and Tort Defense allocates the losses associated with insurable exposures as follows:

- a. **Property Premium Allocation** - The commercial property premium allocated to each participant is based on the participant's buildings and content replacement values (see Risk Exposure Reporting).

The deductible assessment for each participant is based on the average dollar value of reported, retained, or uninsured losses under the deductible for present fiscal year to date and for the two prior fiscal years. The premium for each participant will be determined based on each participant's percentage of total premium for property insurance.

- b. **Tort Liability Premium Allocation** - General and vehicle liability insurance premiums are allocated to participants based upon loss experience and exposure. The following factors are applied:

- 1) Prior loss history.
- 2) Loss Propensity (Exposure) as measured by the number of FTEs and vehicles.

- c. **Other Premium Allocation** - Premiums for all other commercially and self-insured exposures are allocated based on number and types of exposure units in accordance with the risk exposure reporting procedures as outlined in this manual.

3. The billable amount for each participant is included in the respective budget request for appropriation authority from the legislature (see Risk Exposure & Billing sections).



# CHAPTER VII.

## CLAIMS ADMINISTRATION

### A. OVERVIEW

This policy and procedure was developed to outline the claims administration process to be followed in the event of a loss. A loss for purposes of this chapter includes any loss stemming from natural causes or human error which results in bodily injury, property damage, or other tort related damages to a third party.

Risk Management and Tort Defense will coordinate the adjustment and settlement of most property and casualty claims. All employee group health, life, disability, and worker's compensation claims shall be filed with the participants of state government responsible for administering those programs.

### B. PROTECTION OF ASSETS

Immediately following a loss, every necessary precaution shall be taken by the affected parties to prevent further damage or legal liability to third parties or state assets including property or personnel and to render assistance to injured parties, if necessary.

For example, if a freezing windstorm blows out the windows of a building, the affected participant will promptly board up the windows and clean up the broken glass. Such actions will prevent further losses that could be caused by freezing pipes, which could burst, and cause extensive internal flooding.

### C. CLAIMS REPORTING

1. Timely and accurate reporting of claims are paramount in protecting the interests of the state and its employees. For reporting purposes, claims fall into one of three categories:
  - a. **Vehicle** - These are losses to third parties involving state owned or leased/loaned vehicles, mobile equipment, and watercraft; and losses to fully covered state vehicles, mobile equipment, and watercraft.
  - b. **Property Damage** - These are losses to all other state property other than automobile resultant from perils such as hail, windstorm, earthquake, fire, theft, etc. Property losses include inland marine, fine arts, crime and other unique coverages, which involve state property.

- c. **Personal Injury** - These are general liability which occurs as a result of errors, omissions, and commissions of state employees and officers, and which result in property damage or bodily injury. This category also includes all other losses not mentioned above.

All claims should be reported in accordance with the procedures and instructions hereinafter described (also see appendices or the division's website for specific instructions and forms).

2. After a participant has suffered a loss, the employee most familiar with the incident should immediately notify his/her supervisor. For automobile claims, the participant driver shall complete the **In Case of Accident Form**, which participants should assure is in all vehicles, as a basis for developing a **Report of Incident**. All claims require the completion of the appropriate **Report of Incident**.
3. The immediate supervisor will sign the **Report of Incident** and assure that the form is accurately completed, signed, and dated by the employee. The supervisor will assure that the **Report of Incident** is sent to the Risk Management and Tort Defense Division within 5 business days.

Any catastrophic property loss or loss which involves a fatality or bodily injury, should be telephoned by the employee or immediate supervisor to Risk Management and Tort Defense immediately (within 24 hours).

4. Timely reporting of claims is necessary to ensure that the interests of the state and its employees are protected. Any claim that is not reported within a reasonable time may be denied. In most instances, 15 days would be considered a reasonable time.
5. Copies of the **In Case of Accident** and **Report of Incident Form** shall be distributed as follows:

**ORIGINAL** Risk Management and Tort Defense Division  
1500 East Sixth Avenue, Lower Level  
P.O. Box 200124  
Helena, MT 59620-0124

**COPY** Department of Transportation, Organizational Development Bureau  
for claims involving motor pool vehicles.

6. One copy of each report shall be maintained by the respective participant and Risk Management and Tort Defense. If possible, photographs and diagrams of the losses should also be provided.



7. A **Report of Incident** should be initiated even if no injury or property damage resulted from the incident. An incident that occurs today with little consequence for the participant involved may have serious consequences for those involved at some future date.
8. Incident reports should contain only factual information. State personnel who are completing the reports **should exercise caution not to place blame on other state employees or admit liability.**
9. An incident is defined as any event or circumstance not consistent with normal or routine operations of a state participant which may result in bodily injury, property damage, or legal liability for the State of Montana.
10. IN THE EVENT OF A CLAIM INVOLVING SERIOUS BODILY INJURY OR EXTENSIVE PROPERTY DAMAGE, STATE EMPLOYEES ARE CAUTIONED AGAINST ADMITTING LIABILITY OR FURNISHING INFORMATION ON ACCIDENTS OR LAWSUITS TO UNAUTHORIZED PERSONS OTHER THAN LAW ENFORCEMENT OFFICIALS. OBTAIN NAMES AND ADDRESSES OF WITNESSES ON ALL POTENTIAL LIABILITY CLAIMS. **REFER ALL OTHER QUESTIONS TO RISK MANAGEMENT AND TORT DEFENSE.**
11. In the event of a claim involving theft of money, securities, or other property, notify the police immediately, call the risk manager, and report the loss as soon as possible.
12. Instructions for completing the **In Case of Accident Form** are incorporated into the form. Instructions for completing the **Report of Incident Form** are attached to the forms (see appendices or the division's website).
13. The potential claimant should not be given the **In Case of Accident** or **Report of Incident Form** to complete. However, he/she may submit a letter of demand to Risk Management and Tort Defense detailing the claim and any mitigating circumstances, along with estimates of damage if personal property or a vehicle is involved. The claim will be evaluated within 120 days (§ 2-9-301, MCA).

#### **D. CLAIMS ADJUSTMENT**

1. All claims will be evaluated, adjusted, and settled either in-house by Risk Management and Tort Defense staff, or by contract claims adjusting firms as determined by the Senior Claims Specialist of Risk Management and Tort Defense.
2. The Risk Management and Tort Defense Division receive approximately 800 claims per year. Because the division cannot adequately adjust that many claims, the division has contracts with private adjusters.

Claims adjusting firms with which the division contracts have significant expertise in adjusting a variety of different claims including property, general liability, and automobile, and are located in diverse geographical regions of the state. The division will select contract-adjusting firms to investigate claims based on the location of the claim, the expertise of the adjuster, and the fees charged by the adjuster.

3. Most participants' property claims will be adjusted on a replacement cost basis to coincide with overlying insurance coverage. Replacement cost is defined in the self-insurance portion of the risk management manual.
4. Those property losses which exceed the commercial insurance policy deductible will be evaluated and adjusted by the commercial property insurance carrier.
5. In the event of a property loss, the contract adjuster or Risk Management and Tort Defense claims specialist will require a list of damaged property. A determination will be made by the adjuster as to whether the property needs to be replaced, or is repairable. The insured will be required to sign and complete a proof of loss statement, which is prepared, by the Risk Management and Tort Defense Division in most cases. A qualified adjuster will verify property losses reported by state participants. All losses covered under commercial insurance will be evaluated and adjusted by commercial carrier's staff and written reports submitted to Risk Management and Tort Defense.
6. When a major claim or lawsuit is denied or settled, Risk Management and Tort Defense will notify the affected participant.
7. Payment on claims may not exceed a reasonable finding of replacement cost, actual cash value, or market value under the policy. The intent of the program is to restore participants to pre-loss condition without enhancement.
8. Property purchased after the submission of yearly risk exposure reports will be covered subject to policy limits and conditions, but must be updated by the end of the fiscal year. (See Risk Exposure & Billing sections)
  - a. In the event of a loss, Risk Management and Tort Defense or its contractors will update a participant's estimated value to equal a reasonable finding of replacement cost.
  - b. The participant must cooperate with the staff or contract adjusters in the settlement and disposition of any claim.
9. Damage to windshields on vehicles, which participants lease or loan will be repaired at the lowest possible cost to the state. The Risk Management and Tort Defense

Division requires that each participant obtain at least two repair estimates (one from a repair shop other than the leasing or loaning entity) before replacing windshields on leased/loaned vehicles. Most windshields can be repaired for less than it costs to replace the entire windshield. The cost of such repair is subject to established deductibles.

10. Contractors or vendors who perform services for the state should be required to carry liability insurance for services performed under contract. The affected parties should file claims for which contractors are responsible with the contractor's insurance company. The contractor's insurance company is responsible to investigate and settle such claims. A copy of the **Report of Incident** should be sent to the Risk Management and Tort Defense Division.

If you have any problems with the contractor or its representative or any questions, please call the Risk Management and Tort Defense Division.

## **E. PROPERTY CLAIMS AND LOSS SETTLEMENTS**

1. Payment for all property losses will not exceed the independent estimate of restoration cost. Payment will be the lesser of the cost to repair or replace. To find costs to repair or replace, the Risk Management and Tort Defense Division will use appraisals by staff or contract adjusters. Competitive bids, published cost services, your purchase price or PAMS (Property Acquisition Management System) reports may be used by adjusters to determine replacement value.

2. For these types of property, replacement cost means:

Buildings To Repair: The low bid or reasonable cost to repair with material of like kind and quality.

To Replace: The cost to construct a new building like the old building at the time of loss. Cost to replace includes the necessary use of modern construction materials and techniques. It also includes the cost to comply with at least minimum building codes.

Property: The low bid or reasonable cost of repairing or replacing common items of equal function or made of common materials similar to those of which the item is composed.

3. The state's insurance will not pay more for loss or damage on a replacement cost basis than the least of:
  - a. The cost to replace, on the same premises, the lost or damaged property with other property:

- Of material of like kind and quality
  - Used for the same purposes
  - The amount actually spent that is necessary to repair or replace the lost or damaged property
- b. No payment will be made for the loss of property that is useless to the insured. Example: Obsolete equipment stored in a warehouse and intended for spare parts or disposition. Such property also should not be included as insured property in risk exposure reports since this will increase the insurance premium. Up to actual cash value may be paid for loss of property intended for disposition and salvage.
- c. **REPLACEMENT COST DOES NOT INCLUDE:**
- Betterment. Betterment is allowed when simply caused by new materials. It is allowed when new models must replace discontinued models if used machines are not reasonably available. It is allowed for changes required by building codes in order to repair or replace.
  - Cost of renting property.
4. Risk Management and Tort Defense solely is authorized to pay vendors for damages unless special accounting procedures or prior agreements exist.
5. Where property losses exceed the deductible found in the commercial property insurance, Risk Management and Tort Defense will coordinate payments to participants from the self-insurance fund and proceeds from the commercial insurance carrier.

## **F. VALUATION**

1. **All real and personal property shall be valued in accordance with the provisions of the overlying insurance coverage.** The valuation is typically replacement cost or stated value. On jigs and fixtures, dies, small tools, patterns, contractor's equipment and personal property of third parties, the actual cash value with proper deduction for depreciation shall apply. On third party vehicles for which the state is liable, market value shall apply.
2. Replacement cost or actual cash value will be paid only for property under the ownership and control of the state, and in which the state has an insurable interest.
3. Property claims shall be evaluated by qualified personnel. If there is disagreement as to how the claim should be valued, Risk Management and Tort Defense and the insured may each retain an independent claims adjuster to value the claim.

4. If agreement cannot be reached by two independent adjusters, the opinion of a third adjuster may be sought.
5. All surplus and salvage proceeds for property which Risk Management and Tort Defense has made payment shall revert to Risk Management and Tort Defense self-insurance reserve fund in accordance with procedures outlined in this manual.

## **G. SUBROGATION**

The Risk Management and Tort Defense Division subrogates only those claims for which the state has an insurable interest. Typically, various types of property claims will be subrogated.

For all other losses, the affected participant is encouraged to pursue damages from the party at fault or retain the services of Agency Legal Services for the same purpose. Upon request, the Risk Management and Tort Defense Division will provide advice to state participants regarding subrogation.

## **H. CLAIMS PAYMENT**

### **1. Occurrence of a Claim**

When a participant realizes a property loss, Risk Management and Tort Defense should be notified immediately.

A claim number will be assigned and all future correspondence between the participant and Risk Management and Tort Defense will refer to this number to properly identify the claim. Risk Management and Tort Defense or its adjusters will investigate all claims and determine the amount of the loss.

### **2. Proof of Loss**

Upon receipt of a signed proof of loss statement (the proof of loss is prepared by the Risk Management and Tort Defense Division) the division will send the participant an interagency invoice for the amount of the deductible. **The participant must then initiate a no warrant transfer to pay the amount of the deductible to Risk Management and Tort Defense. In accordance with Management Memo 2-87-1, state participants must transfer the amount of any deductible, using form 232 (no warrant transfer), to the division before the division can pay vendor invoices.**

### **3. Vendor Invoices**

Once a loss is approved for payment, Risk Management and Tort Defense will then pay all vendor invoices for replacement or repair of a covered loss. Participants will **not** pay vendors for losses covered by the state comprehensive insurance program

administered by Risk Management and Tort Defense (see Management Memo 2-87-1). To do so needlessly uses a participant's budget authority. The Risk Management and Tort Defense Division have statutory authority to pay claims expense.

The participant is responsible for paying Risk Management and Tort Defense any difference above the stated proof of loss. For example, if a participant decided to upgrade a property when it was being replaced or repaired (see Claims Administration procedure for policy on replacement) the participant is responsible for any cost above the amount stated on the proof of loss. The participant will pay this difference to Risk Management and Tort Defense with a no warrant transfer (this difference will be listed on the final proof of loss form). Risk Management and Tort Defense will pay the vendor directly.

Occasionally, an adjuster or this division will find that a loss cannot be readily resolved. In such cases, Risk Management and Tort Defense will prepare an estimated proof of loss. This will enable the division to pay vendors with pending bills until the final adjustment is made. This partial proof of loss will include any deductible the participant will have to pay. Once the loss is totally resolved, a final proof of loss will be sent to the participant. The final proof of loss will indicate if deductibles required by the participant have been met.

In a situation where a participant has erroneously paid the vendor directly, Risk Management and Tort Defense must record the proper correcting entry and reimbursement to the participant. It is required that documentation including a copy of the SBAS form 231 (Transfer Warrant Claim) that paid the vendor and copies of the original vendor invoices for that claim be submitted by the participant to Risk Management and Tort Defense. Reference should be made to the claim number assigned to that loss for which the payment was made.

#### **4. Salvage**

During the claim submittal and adjustment phase, state participants must accurately list all damaged and/or destroyed property that constitutes the loss. Risk Management and Tort Defense Division staff and/or their adjusters will verify damaged and/or destroyed property and determine whether it is salvageable or not.

After the claim is resolved, any salvage is the property of Risk Management and Tort Defense. Report salvage property to the Surplus Property Bureau, of Administration, on a Declaration of Surplus Property/Property Adjustment Record Form (PAMS Form 3) and send a copy of the PAMS Form 3 to Risk Management and Tort Defense. Please clearly indicate on the narrative portion of PAMS Form 3 the following: Salvage Property of Risk Management and Tort Defense. Proceeds from the sale or liquidation of salvage property shall be remitted to the self-insurance fund of Risk Management and Tort Defense.

## **BUT I STILL HAVE A QUESTION!**

**Q Who should complete the Report of Incident Form?**

A The involved employee and supervisor or the person with whom the claimant makes contact by phone or in person should complete the forms.

**Q What form does the claimant fill in?**

A The potential claimant should not be given forms to complete. However, he/she may submit a letter to Risk Management and Tort Defense detailing the claim and any mitigating circumstances, along with estimates of damage if personal property or a vehicle is involved. Appropriate personnel from each participant will be required to complete the **Report of Incident Forms**.

**Q Where do I get the Report of Incident Form?**

A The forms may be ordered from Central Stores like all other state forms (**form #9000-0431 and #9000-0433**) or downloaded from the division's website.

**Q If an individual comes to our office and indicates that the state damaged his/her property, should someone go investigate the situation?**

A No. This implies fault and frequently makes the matter more difficult to handle. Simply refer the potential claimant to Risk Management and Tort Defense.

**Q What if the claimants want the division to repair the damage or ask where the property should be taken for repair?**

A If the claimant requests reparation, again, tell him/her that the participant or employee has no authority for such an authorization and refer the claimant to Risk Management and Tort Defense.

**Q What if someone is seriously injured and needs medical attention?**

A If they are physically able, the injured party should indicate who to call or where they want to be taken. State employees must use their own good judgment when providing assistance. Be very careful NOT to authorize specific treatment or commit to any type of payment for the treatment. Employees may offer the use of a state phone or secure assistance for the injured party.

**Q What if the claimant or his/her attorney requests specific records such as maintenance logs or other files?**

A Do not give the claimant or his/her attorney any records. Check with Risk Management and Tort Defense first.

**Q What do I do if I am served with a summons or other legal documents?**

A If served with a summons, immediately telephone Risk Management and Tort Defense. Please understand that even though the lawsuit may name only you, the state will defend you if you were acting within the course and scope of your employment.

**Q When will Risk Management and Tort Defense defend a state employee?**

A Risk Management and Tort Defense will defend a state employee in reference to allegations of negligent acts, which are non-criminal in nature and performed within the course and scope of employment, per the Tort Claims Act.

**Q When are students or non-employees covered under the state's insurance program?**

A When acting in an official capacity in the interests of the state, and prior agreement exists between Risk Management and Tort Defense and the affected participant.

**Q What should I do or say at the scene of an accident?**

A At the scene of an accident, note the name of the other parties, the vehicle description, comments made by other parties, weather conditions, time of day, and other relevant information. Make sure that the law enforcement authorities are called. REMEMBER, if there is a question about who was responsible, **admit nothing, make no commitments to anyone, and do not attempt to negotiate any type of settlement. Cooperate with law enforcement officials.**

**Q What problems exist if I take my friend, relative, or business associate who is not on state business with me in a state vehicle?**

A If there is an accident, there is no medical or wage loss benefit for the passengers. You would have to turn to your own vehicle insurance for coverage of the passengers.

**Q Should non-state employees drive state vehicles?**

A No! The Tort Claims Act covers only agents, officers, or employees of the state acting within the course and scope of employment.

**Q If I drive my personal car on state business, either by choice or at the direction of the participant, am I protected by the state's insurance?**



A Your own auto insurance is primary. Payment for damages to other parties or medical payments would not be made by Risk Management and Tort Defense unless determined that the state employee driving the vehicle was negligent. You would turn to Worker's Compensation or your own vehicle coverage for payment of your own injuries.

**Q What if a state employee is convicted of DUI while driving on state business?**

A If a state employee is convicted of DUI, the employee would not be considered to be acting within the scope of employment and the state's insurance would not provide protection.

**Q Which investigators should state employee's talk to?**

A State employees should only talk to risk management personnel, including the contract adjuster, legal services, and property carrier personnel. Refer any contact from insurance company representatives of the other party or attorneys to risk management. **Do NOT** give them statements or complete any forms, which they might provide to you without first checking with Risk Management and Tort Defense.

**Still have questions on liability issues?** Call Risk Management and Tort Defense at 444-2421 and we will try to help you.

## CHAPTER VIII.

### TORT DEFENSE: Legal Unit

Montana's constitutional waiver of sovereign immunity exposes the state and its employees to liability for property damage or personal injury to others due to negligence. The legal unit of this division provides the state and its employees acting within the scope of their jobs with aggressive legal defense in liability claims and lawsuits ("tort" claims).

The **OBJECTIVE** of the legal unit is the effective disposition of cases at the lowest total cost, consistent with legal and ethical obligations and with the need to establish acceptable precedents.

The **PROCEDURE** is to investigate and identify as quickly as possible claims that have merit, to resolve those cases, and to prepare the remaining cases for summary judgment or trial.

The legal unit was established according to the provisions of the Tort Claims Act as provided in Title 2, Chapter 9, Parts 1-3 of the Montana Codes Annotated for the State of Montana and provides the following services:

1. Advice to state participants to resolve tort liability issues.
2. Cost effective, high quality legal support to state defendants by staff counsel; agency legal services counsel, or contracted counsel.
3. Legal support to the claims and risk management unit of this division.

If you have any questions regarding tort liability issues, please contact a member of the legal staff. We will arrange a consultation with you at your convenience.

# **CHAPTER IX.**

## **RISK EXPOSURE REPORTING**

In accordance with §2-9-201, MCA, the Department of Administration, Risk Management & Tort Defense Division is responsible for the acquisition and administration of all the Property/casualty insurance purchased for the protection of the state as defined in §2-9-101, MCA.

Risk exposure reporting is an important component in the administration of the State of Montana insurance program. Risk exposure data is defined as assets or resources of a state agency that is subject to loss. Examples of this information include state buildings and contents, leased/loaned vehicles, full time equivalents, boilers & machinery, aircraft, airports, and fine arts.

The Risk Management & Tort Defense Division requires accurate Risk Exposure Data from each agency in order to assure that all state assets and resources are adequately covered by insurance. Risk exposure data that is not reported accurately by agencies may result in insurance premium overcharges (commercial as well as self-insured) or could result in exposures not being covered by insurance. Risk exposure data may from time to time be verified by independent audit.

### **Risk Exposure Report Instructions**

The Risk Exposure Report Form, attachments, lists, and other pertinent information necessary for each agency to have insurance coverage upon insurance renewal are hereby provided or are also available on the division's website at least 120 days prior to the start of a new fiscal year. These instructions are only to be used by state personnel in completing the Risk Exposure Report Form.

Each agency must complete the Risk Exposure Report Form (appendices) and submit it to the Risk Management & Tort Defense Division, Risk Finance Specialist. The form is multi-purpose and agencies will use it to report essential data necessary for continued insurance coverage. The data is needed for both commercial and self-insurance programs.

On the form, please indicate the name of the agency and agency number. Where attachments are provided, please update the information as appropriate. The person completing the form should indicate their name and telephone number as a reference in the event questions arise concerning the information provided. All completed sections of the Risk Exposure Report Form and appropriate attachments must be received by the Risk Management and Tort Defense Division by April 15th in order for coverage to apply.

The Risk Exposure Report Form is designed primarily for major insurance coverage's

that impact all state agencies. Agencies that desire coverage for risk exposures that are not indicated in the state's core property/casualty insurance program (see the division's website or the Risk Management Program Manual), are ultimately responsible to contact the Risk Management & Tort Defense Division. Agencies need only to complete the sections of the form for which they have an insurable exposure.

Agencies should review each section of the form. If a particular section does not apply to your agency, indicate by checking the box "section does not apply" to indicate your agency has no exposure for that item of concern. For all other sections, indicate your exposure by verification of current information in the attachments for your assets and resources as correct, advising of any additions to the exposure base, and/or advising of any deletions from the exposure base.

In some instances you will have attached lists for reference. Please indicate any changes to the exposures on the attached list and show all new exposures on the Risk Exposure Report Form. Use additional sheets of paper as necessary.

If you have questions, please contact the Risk Management & Tort Defense Division, Risk Finance Specialist at 444-2421.

## **SECTION A - GENERAL LIABILITY AND CRIME INSURANCE**

General liability insurance provides coverage for state employees who are sued by third parties while acting in the course and scope of employment. Crime insurance provides coverage in behalf of all state agencies for acts of employee dishonesty such as embezzlement or fraud by state employees.

The Risk Management and Tort Defense will obtain current total FTE counts from OBPP and the Commissioner of Higher Education as a basis for updating parts ( c ) and (d) of Section (A). The agency 's task is to simply indicate the number of Class A FTE's part (b) as defined below and to indicate if there are any volunteer worker exposures (Section (e)). If volunteers are present, a statement should be attached briefly describing what they do and the estimated hours per year involved.

**Class A Employees:** All executive, administrative, judicial and supervisory officials, agency and division heads, and all officials and employees whose principal duties are to receive, handle, or have custody of money, checks or securities, or account for supplies or other property; certify, sign or countersign checks, drafts, warrants, vouchers, orders or other documents providing for the disbursement or delivery of money, securities, supplies or other property.

**Other Employees:** All personnel whose principal duties consist of: 1) inside or outside clerical activities, 2) office work such as stenography, typing, filing, switchboard operation, business machine operations, etc., 3) operation of vehicles transporting passengers for cash fares or tickets, 4) skilled or unskilled labor and craftsmanship, 5) solely the mechanical

operation of automotive equipment, 6) non-clerical activities of the medical or nursing professions, 7) any teaching capacity in the field of education, 8) outside or field work of a non-clerical nature, 9) patrolmen, 10) other.

The crime insurance premium for each agency is calculated by applying a pre-determined rate per class of employee to the total number of employees within a given class. Using your Class A FTE count, the other employee total will be calculated by subtraction from the total FTE count. The Risk Management and Tort will allocate premium to each agency Defense Division based upon the number and classification of employees.

## **SECTION B - BURGLARY AND THEFT**

This coverage is primarily for protection against theft of cash, securities, or other marketable instruments. The key information needed in column (a) is the specific location of the cash to be secured. For example, it could be the field house where college registration is taking place, or it could be the bookstore where there is a high volume of cash during registration periods. Please fill in the exact address of each location where the protection is needed.

"Inside" on the form refers to cash that may be stolen inside a building or on a campus. "Outside" refers to cash that may be stolen while in transit. For example, a theft after a registration day while the money is being transported to its place of deposit would be an outside theft.

The basic coverage required throughout the year should be provided in column (b). For example, a college may need a certain amount of cash protected in the bookstore operation. The information in this column represents the basic amount of protection needed for usual "cash in the till" type of coverage throughout the year. For instance, protection for \$5,000 of cash in the bookstore throughout the entire year may be needed. Therefore under inside you would indicate \$5,000. Under outside you may desire \$5,000 through the year for protection of cash in transit from its source on campus to its destination of deposit. Simply list \$5,000 under the outside column of portion (b).

The information needed in column (c) is the additional amount of cash coverage protection needed during peak periods such as registration. Again, the "inside" refers to such locations as the field house and bookstore on campus which are heavily used during registration. "Outside" refers to the cash protection needed while in transit. The exact dates of the additional coverage needs to be indicated under column (d). Please include all applicable registration or other key dates. These dates need to coincide with the amounts of coverage requested under (c).

Under column (e) please describe the type of security for each location where the cash protection is needed. Describe the type of safes or door and window locks, for example, and also if any guards are on shift. It is helpful to explain when the doors are open for business for each location. Please attach additional pages as needed although a lengthy

explanation is not required.

## **SECTION C-1 – AUTOMOBILE LIABILITY**

State-owned/leased/loaned/courtesy vehicles are automatically covered for liability (i.e. tort damages to third parties, including legal fees and court costs). Agencies are requested to maintain a current list of state-owned/ leased/loaned/courtesy vehicles but do not need to submit any lists unless specifically requested. All that is required on the form is the current number of vehicles by classification and the grand total for all classes. Separate columns are provided for listing vehicles by individual divisions if desired. The number and type of units will provide the basis for billing insurance premium allocations.

### **Unit Rate/Annual Premium**

State-owned/leased/loaned/courtesy vehicles will be covered for liability coverage (see insurance coverage section of the Risk Management Procedures Manual – Vehicles or the division's website) at a set fee established by the state's actuary based upon the type of vehicle owned. Liability coverage for leased vehicles will be provided at the same rate as for state-owned vehicles.

The agency's task is to compute the total number of units by each type of vehicle. This will be the basis for the Risk Management and Tort Defense Division's computation of premium at the rate established by our actuary.

### **Vehicles Added/Deleted During the Fiscal Year**

State-owned/leased/loaned/courtesy vehicles acquired throughout the fiscal year will receive immediate coverage but must be reported on the next Risk Exposure Report Form. No prorated premium for the balance of the year will be charged. Conversely, no prorated rebates will be given for vehicles sold or placed in surplus during the fiscal year.

### **Definitions of Types of Units**

Passenger Vehicles - Cars, passenger vans, suburbans, blazers, etc.

Buses - Commercial use, over 15 passengers.

Light Trucks - One ton or less, including cargo vans.

Medium Trucks - 11,000 to 30,000 GVW and motor homes.

Heavy Trucks - Tandem axle and special units, diesel or gasoline.

Motorcycles/Scooters - A powered vehicle with two wheels in tandem, may have a side car with a third wheel.

Commercial Trailers - Semi-trailers, mobile office trailers.

Self-Propelled/Specialized Equipment - Mowers, snowmobiles, motor patrols, crawlers, street sweepers.

Utility Trailers - Flatbed, not enclosed, and all enclosed trailers.

## **SECTION C-2 – COMPREHENSIVE/COLLISION COVERAGE FOR VEHICLES OWNED/LEASED/LOANED BY THE STATE**

Comprehensive/collision coverage for physical damage to state-owned vehicles is provided only upon written request by a state agency prior to the loss with subsequent approval of the Risk Management & Tort Defense Division.

Leased/loaned/courtesy vehicles are automatically covered for comprehensive/collision coverage by the state self-insurance fund for 30 days (exception: motor pools other than the state motor pool in Helena, Montana).

Automatic comprehensive/collision coverage for leased/loaned/courtesy vehicles for more than 30 days (or for vehicles not otherwise specified) is not provided unless the agency has a written agreement with the division prior to the loss and subsequent approval is granted.

A leased vehicle is a vehicle that has been obtained by means of an open end lease or a lease with option to buy contract. The term of the lease may vary but is usually for a minimum of one year.

A loaned vehicle is a vehicle that has been provided to the state as a gratuity. If the vehicle is provided on an annual basis, it should be reported using the same procedures as for a leased vehicle. If the vehicle is provided only for short periods of time, it will be considered a courtesy vehicle with special reporting provisions. Coverage is provided for courtesy vehicles not to exceed the size of a 15 passenger van.

A rental vehicle is a vehicle obtained from a car rental company by traveling state employees and is not subject to being reported to the Risk Management and Tort Defense Division.

Agencies are required to provide the following information on the Risk Exposure Report Form for leased vehicles and loaned vehicles on an annual basis:

License Plate Number

Year, Make, Model

Type of Unit (Passenger, Bus, etc., see Section B for definitions.)

Vehicle Identification Number

Name of the Owner/Lender  
Market Value of the Vehicle (Based on NADA values.)  
Number of days the vehicle was leased/loaned in the 12-months preceding  
April 1.  
Start date & end date (Based on NADA values).

The NADA (National Automobile Dealership Association) used car guide can be used to determine market values for vehicles not recently acquired. The NADA used car guide is available at most car dealers, insurance offices, or you may contact our office for assistance. The market value of the vehicle is the basis by which the comprehensive/collision premium is determined.

Vehicles leased, loaned, or rented by an agency for more than 30 days are not covered unless the agency has obtained comprehensive/collision coverage as described in the process below:

#### For Agencies Beginning a Lease Program

Agencies without a lease history are requested to list for the Risk Management and Tort Defense Division the number and value of any owned/leased/or loaned vehicles they anticipate utilizing during the upcoming fiscal year. Vehicle market values will be the basis of determining premiums for comprehensive and collision coverage. Please include this information under column (f) of Section (C-2) on the Risk Exposure Reporting Form.

#### For Agencies with a Lease History

Agencies leasing vehicles are requested to verify on the form or attached list their leased vehicles. Be sure to update the current market values, as that will be the basis of determining premiums for comprehensive and collision coverage.

#### Loaned (Courtesy) Vehicles

Vehicles loaned to state Agencies on an annual basis should be reported in the same manner as for a leased vehicle utilizing the procedures above.

Agencies that utilize courtesy vehicles during the year are requested to maintain a complete record of the type of vehicle, the current market value, and the number of days the vehicle was utilized. Records should show activity for the period April 1 through March 31. A copy of this documentation should be reported with the Risk Exposure Report Form indicating the actual usage and value of all courtesy vehicles utilized for the 12-month period preceding April 1 of the current fiscal year.

#### Rental Vehicles



Rental vehicles used by traveling state employees will be covered for liability and comprehensive/collision damage. No premium will be charged, but deductibles will apply to the user. State employees need not purchase additional coverage offered by car rental companies.

#### Billing

Leased and loaned (courtesy) vehicles will be provided collision coverage based upon a premium charge of a percentage of the market value of the vehicle and pro-rated by actual usage. Liability coverage will be provided at the same rate as for state-owned vehicles.

### **SECTION C-3 - VEHICLE MILEAGE**

In order to provide accurate data for underwriting purposes, each state agency is hereby requested to report total mileage for all vehicles (state owned/leased/loaned/courtesy) driven during fiscal year 2000. If only a portion of the information is available, please provide what is available, accompanied by an explanation of the same.

### **SECTION C-4 - REGISTERED WATERCRAFT**

Registered watercrafts are currently provided liability coverage at no cost. Watercraft will be provided collision coverage, upon request, based upon a premium charge of a percentage of the market value of the craft and pro-rated by period of actual ownership. Agencies are requested to provide a current list of registered watercraft in order that Risk Management and Tort Defense can fully assess this exposure. Please verify any attached listing or attach a list in a format similar to Section (C-3).

### **SECTION D - COMMERCIAL PROPERTY**

The Risk Management & Tort Defense Division provides insurance protection for state properties (buildings and contents), provided that the property is accurately reported to the division.

Risk Management and Tort Defense will include a copy of its most recent listing of buildings to each agency to update and complete. Each agency is asked to complete the following steps:

#### Buildings:

1. Carefully review the entire list of buildings for the agency and make sure that all properties are included. Draw a red line through any buildings that have been sold, demolished, or destroyed and are not going to be replaced. Use Section D of the form to indicate any new buildings or leased areas.
2. Make sure the name, number, address, and zip code of each building is correct. It is

important to indicate the city and zip code where each building is located if it is not otherwise obvious.

3. Verify the square footage for each building. Indicate any changes in occupancy or square footage due to renovations or additions on the attached list. Verify the square footage of newly purchased or renovated buildings with the Architecture and Engineering Division of the Department of Administration.
4. Each building must be classified by occupancy code. The codes are:

Occupancy Type Occupancy Code

Airport Hangers	AH
Barn (Agricultural)	BA
Cabins/Bunkhouses	CA
Clinics	C
Cottages (Residential)	CO
Courthouse	CH
Garage, Parts Storage	GP
Garage, Service Center	GS
Garage, Vehicle Storage	GVS
Governmental Building	GB
Greenhouses	GH
Hospital, General	HG
Hospital, Nursing Home	HN
Jail	J
Juvenile Hall	JH
Laboratory	LA
Library	L
Lodge	LO
Museum	MU
Office	O
Police Station	PS
Power Plant	PL
Quonset Warehouse	Q
Residential Apt Complex	R
Roadside Rest Area	RA
Shed (Agricultural)	SH
State University	S

Contents:

Indicate the type of content value of each building. The types of contents are High, Median or Low. Use the occupancy descriptions and directions below to complete this task.

## OCCUPANCY DESCRIPTIONS

A description of each occupancy type and the respective occupancy code are provided below. In some cases the type of building is self-explanatory. The descriptions of High Median and Low are to assist you in completing column (d) of section (D) of the Risk Exposure Report Form. Simply mark X in column (d) indicating whether the building has High, Median, or Low levels of contents for each building you have listed. Only mark one type of contents for each building.

### Airport Hangers (AH):

This type of building is self-explanatory. Only a median value of contents applies.

### Barn (BA):

This type of building is self-explanatory. Typically earth floor, wood or metal frame, and includes pens, gates, rails, etc. No additional contents value applies.

### Cabins/Bunkhouses (CA):

These are any cabin or bunkhouse type dwellings, primarily with a wood frame. Only the median content value applies. Contents include typical amounts of beds, dressers, chairs, etc.

### Clinics (CL):

These are medical practice centers for examination and minor treatment. **HIGH** content value is a clinic with one or more expensive X-ray machines, and/or extensive office areas. **MEDIAN** content value is a clinic with a moderate amount of medical instruments, and/or inexpensive X-ray system (s), similar to a dental clinic. Office areas are not extensive. **LOW** content value is a clinic with examination rooms only, the equipment is owned by others (typically physicians). The office areas are not extensive.

### Cottage (Residential) (CO):

These are small residential buildings, typically of wood frame construction. No content value applies as they are typically property of the residents.

### Courthouse (CH):

These are buildings made up of courtrooms, and include judges benches, seating and witness stands. **HIGH** content value would be in small buildings, where the courthouse also serves as the primary office building. **MEDIAN** content value is for a courthouse with additional space devoted to office areas. **LOW** content value is for buildings, housing, courtrooms only.

#### Garage, Parts Storage (GP):

This is a warehouse for the storage of supplies, parts, inventories, police evidence, etc. The actual supplies, parts, etc., are not included. HIGH content value is a complete warehouse with extensive shelving, cabinets, and small office areas. MEDIAN content value is a warehouse in which part of the storage is not on shelves or in cabinets, but merely on the floor or pallets. However, most of the area is devoted to shelving and/or cabinets. LOW content value is for small equipment sheds and warehouses in which almost all of the storage is on the floor or pallets.

#### Garage, Service Center (GS):

This is a building for the maintenance and repair of vehicles. HIGH content value is for a sophisticated repair shop, with extensive truck/car lifts and diagnostic equipment. MEDIAN content value is an average vehicle repair shop. LOW content value is for a small shop with less sophisticated diagnostic equipment, and few or no lifts.

#### Garage, Vehicle Storage (GVS):

This type of building is self-explanatory. Since the building is used solely for housing vehicles, there are no contents values.

#### Government Building (GB):

These are State government centers, composed of offices, courthouses, and small police stations, etc. HIGH content value has extensive offices, pc's, and small open areas. MEDIAN content value has more open office areas and common areas. LOW content value is heavily weighted towards courtroom buildings, extensive open areas, inexpensive offices.

#### Greenhouses (GH):

These are for a typical commercial glass greenhouse, and include minimal values for interior furnishings. There are no additional contents values.

#### Hospital, General (HG):

This is a full general hospital, with operating rooms, and radiology departments. HIGH content value would include extensive radiology, one or more CAT SCANS and/or Nuclear Magnetic Resonance imaging technologies. Otherwise the content type should be median.

#### Hospital, Nursing Home (HN):

This is a hospital or hospital wing devoted to patient care only. There may be some medical equipment, but there are no operating rooms or radiology departments. Only the median content value applies to this category.

**Jail (J):**

This is a complete jail facility, with some office areas, kitchen equipment, and exercise equipment rooms. HIGH content value would be found in a smaller facility, where offices take up much of the building space. MEDIAN content value is a typical jail facility; includes the security system. LOW content value is for a high-occupancy jail; most of the building area is devoted to jail cells, with little in the way of furnishings.

**Juvenile Hall (JH):**

This is a complete juvenile housing facility, with day rooms, classrooms, a kitchen and possibly a courtroom. Only the median content value applies to this category.

**Laboratory (LA):**

Structural values include laboratory piping and built-in lab benches. HIGH content value is for a fully equipped chemical or biological laboratory, with a high concentration of expensive analyzers. MEDIAN content value applies to moderately equipped labs with a fair amount of expensive equipment. LOW content value applies to adequately equipped labs with a small amount or no expensive equipment. Typical state or county laboratory contents would probably fall in the low range.

**Library (L):**

The content value in library is for shelving, carrels, office furnishings and microfilm reader/printers. Only the median content value applies to this category. The value of books, films, and periodicals must be added separately as subsequently described.

**Lodge (LO):**

Structural values are for typical wood frame or masonry lodges. Only the median content value applies to this category.

**Museum (MU):**

This refers to a typical state/county museum. Only the median content value applies to this category. Content values include only display cases, small office areas, gift shops, etc. Not included are fine arts, exhibits, etc., which are covered separately.

**Office (O):**

This category which covers many of the buildings owned by state government including, engineering buildings, social service buildings, and computer centers. Copiers, office machines, and pc's are included in this category. HIGH content value is for buildings with concentrated furnishings including movable partitions and personal computers/word processors in the place of typewriters. The furniture does not have to be top of the line, if the concentration is high. It also applies to areas with high quality furniture (such as executive offices) but ONLY if there are not large areas of open spaces. MEDIAN content value covers most office occupancies. It includes executive offices with large open spaces, and engineering offices with individual rooms, many with personal computers. It also includes offices with few personal computers, but a compact furniture arrangement. LOW content value is for offices with inexpensive furniture and/or a fair amount of space devoted to each office. It could also be an office area with a compact arrangement, but with manual typewriters instead of electric typewriter/personal computers.

#### Plants (PL):

This refers to a typical power plant found at a university, prison, or some complex. Only the median content value applies to this category.

#### Quonset (Q):

This refers to any prefabricated metal storage structure mounted on a cement pad, with no interiors and minimal electricity and heating. Only the median content value applies to this category.

#### Residence (R):

This refers to any apartment or housing complex, such as those occupied by college students. Only the median content value applies to this category.

#### Roadside Rest Areas (RA):

This refers to any state run rest area. Structural values include all plumbing fixtures, and a small amount of signage. No additional content values apply.

#### Shed (SH):

Typically a very simple shelter with earth floor, and wood or metal construction. Includes pens, gates, rails, etc. No additional content values apply.

#### State Universities (S):

This is for a complete facility, with classrooms, dorms, gymnasium, and library. The values for contents EXCLUDE the actual library book collections. Again, books will be included

separately as subsequently described. Only the median content value applies to this category.

#### Separate and Specific Contents:

Replacement cost estimates by building for the following major items must be added to the contents risk exposure data to be insured. These are large volume or dollar amount of items which are not in typical buildings. Specifically these items are centralized:

- a) TELEPHONE SYSTEMS, if they are owned or insured (This information is only to be reported by the Information Services Division, Department of Administration).
- b) MID-SIZE AND MAINFRAME COMPUTER SYSTEMS, located in state buildings. Micro computers (personal computers) are not to be counted here as they are already included and covered as general building contents.
- c) LIBRARY BOOKS, not only at a library location, but also extensive law or other libraries found in government buildings.

These items are to be included as replacement dollar values in column (e) of section D of the Risk Exposure Report Form. Please indicate the dollar value and a one or two word description in column (e) for each building which may have these specific items. An example may be: \$2,000,000 mainframe computer.

Information regarding the replacement value of these separate and specific items may be obtained from the Information Services Division or the Procurement and Printing Division of the Department of Administration.

### **SECTION E - BOILER AND MACHINERY**

Risk Management and Tort Defense procures commercial coverage to protect state owned boilers and state property for accidental loss. Typically commercial insurance is bid over a four year period. The contract is for one year with an option to renew for three additional years as is mutually agreeable.

Boilers are no longer classified for insurance purposes. All that is necessary is to indicate the building name, specific street address, and the number of units at each location. It is also desired to know if the boiler is used for heating the building or supplying hot water.

Insurance company representatives regularly inspect boilers. Each agency is requested to cooperate with such inspectors and to follow up with their recommendations. Please provide a copy of all inspection correspondence to Risk Management and Tort Defense.

Agencies are responsible to keep the Risk Management and Tort Defense Division informed of any changes of status of boiler ownership. The agency requests prompt written notification of any boilers that are no longer in use. Agencies should be particularly mindful that when state buildings are sold, vacated or demolished that often boilers exist in such facilities. Each should delete boilers that are sold or in some other way disposed of agency from subsequent risk exposure reports.

Boiler premiums for each agency are determined by the commercial insurer based on a charge per boiler multiplied by the number of boilers reported by each agency. Agencies will be billed for boilers not listed as determined by authorized inspectors. Turbines and generators should also be listed by location, number of units and a description of the purpose and usage of such items.

## **SECTION F - AVIATION INSURANCE**

### **Part 1. Airplanes**

The Risk Management & Tort Defense Division purchases commercial insurance to protect state aircraft from physical damage and to protect the state against liability to third parties. Physical (hull) damage is not provided unless requested by the agency. Those agencies owning airplanes should complete Part 1 of Section (F). The pertinent information is the make, model, year, number of seats, "N" number, and the stated value of the airplane. The "stated value" of the airplane is the value reported by each agency including any upgrades. In the event of a loss, the airplane will be replaced only up to the amount of stated value, therefore, it is important that this value is accurately stated. Under column (g) of Part 1, please give a brief description of the primary use of each aircraft.

The commercial insurer based on each agency's reported risk determines premiums exposure data. Those agencies with airplanes will be billed by the Risk Management and Tort Defense Division.

### **Part 2. Helicopters**

Agencies are to complete this portion of the form to assure coverage for state-owned helicopters. Basically the same type of information applies as described in Part 1 of Section (F) above for airplanes.

## **SECTION G - FINE ARTS**

The Risk Management & Tort Defense Division purchases fine arts insurance for state agencies that possess state property that is rare or of historic value. Each agency who has fine arts (see definitions section of the Risk Management Procedures Manual - Fine Arts) must maintain accurate inventories of their fine art objects along with estimated market values. Upon request, the division may be able to assist an agency with appraisals of these properties. The Risk Exposure Report Form requires the agency to



report only the values of art exhibited or stored by location. Please include where the items are located (building name and address), total market value and the type of security protecting these fine arts. The following categories of security should be used to complete column (c) of Section (G).

- 1.Camera Surveillance
- 2.Patrol Guard
- 3.Security Locks
- 4.Alarm Systems
- 5.Type of windows (Permanent, sliding, open in, open out.)

## **SECTION H. – BUSINESS INTERRUPTION**

Business interruption insurance provides protection against loss of net income from state revenue producing operations that are damaged from covered perils (i.e. flood, earthquake, etc.). Presently, this insurance covers net income from grants, food services, athletic events, student fees, rental income, board of investment properties, and correctional facilities. Net income from tuition/fees is excluded. (Coverage may or may not apply for your agency. If you have questions, please contact the Risk Management and Tort Defense Division.)

In order to obtain this coverage, on a separate sheet of paper please itemize estimated gross income from revenue producing operations separately by income category (i.e. grants, food services, athletic events, student fees, rental income, parking, and recreational fees). Next, please list annual expenditures separately by payroll, benefits, and operations for all income sources. Finally, subtract expenditures from gross income to arrive at a net income figure (example for the university system provided below). If your agency is interested in obtaining this coverage, please contact the Risk Management & Tort Defense Division.

<b>Revenue Producing</b>	<b>MSU Billings</b>	<b>MSU Bozeman</b>	<b>MSU Northern</b>	<b>Totals</b>
<b>Revenues</b>				
Auxiliary Rentals				
Bookstore				
Event Scheduling				
Student Housing				
Food Services				
Other Housing				
Parking Facilities				
Recreation Facilities				
Resident Hall Oper.				
Health Services				
Student Union				
Student Fees				
<b>Totals</b>				

<b>Expenditures</b> Ordinary Payroll Operations Transfers Out				
<b>Totals</b>				
<b>Net Income</b>				

#### **OTHER COVERAGES**

Please contact Brett Dahl at the Risk Management and Tort Defense Division to discuss any specialty types of coverage you may need that may not have been addressed on the Risk Exposure Data Reporting Form. Lists of your agency's current insured exposures (i.e. FTEs, boilers & machinery, vehicles, property values) are attached. Current lists may be obtained throughout the year from the Risk Management & Tort Defense Division's website at [http://www.discoveringmontana.com/doa/rmtd/restricted/ins/fy2000\\_exp\\_data.shtml](http://www.discoveringmontana.com/doa/rmtd/restricted/ins/fy2000_exp_data.shtml).

## **CHAPTER X.**

## BILLING PROCEDURES

In accordance with § 2-9-202, MCA, the Risk Management and Tort Defense Division is to allocate the costs of insurance protection to state participants. The legislature must authorize expenditure of funds for insurance coverages.

The division establishes the rates to be charged to each participant during the biennial budget preparation process. The rates are based on each participant's most recent risk exposure report and any additional requests for scheduled or unscheduled insurable items.\*

The division then submits these rates to the Office of Budget and Program Planning (OBPP). The budget office distributes these insurance rates to all state participants. Each participant is responsible to include established amounts in the 2104 (insurance) object of expenditure. The budget office will assure that insurance costs are included in each budget. Participants must review documents produced from OBPP's analysis to verify that these insurance costs are included in the executive budget before it is finalized and presented to the legislature. During the legislative process, participants should ensure that their insurance costs are included in the appropriations bill.

State participants will be promptly billed for their budgeted amounts for all lines of insurance at the beginning of each fiscal year. This billing will be sent electronically. Participants are requested to pay their allocated insurance bill to the division immediately. The division will follow up with participants to assure payment by at least September 1 of each fiscal year. Participants will be billed for any newly requested coverage during the fiscal year.

**\* NOTE:** It is each participant's responsibility to appropriately anticipate projected insurance needs and budget accordingly to include any potential changes in exposure during the biennium (i.e., acquisition of additional vehicles, new employees, purchases of fine arts, etc.). Participants who acquire new property, vehicles, etc., during the fiscal year will receive automatic coverage provided that subsequent risk exposure reports are updated. Participant premiums will be adjusted upward or downward to reflect the change in exposure.

## **CHAPTER XI.**

## **APPENDICES**

RISK MANAGEMENT AND TORT DEFENSE  
1500 EAST SIXTH AVENUE, LOWER LEVEL  
P.O. BOX 200124  
HELENA, MONTANA 59620-0124  
(406) 444-2421

**REQUEST FOR INSURANCE SERVICES**

Participant Name: \_\_\_\_\_ Date: \_\_\_\_\_

Person Submitting Request: \_\_\_\_\_

Type of Insurance Desired: \_\_\_\_\_

If the proposed coverage is for an independent contractor, please indicate the name of the contractor and type of business. (If more than one contractor is involved, use this form to indicate the line of business and the number of contractors.):

\_\_\_\_\_  
Location of item to be covered: \_\_\_\_\_

Estimated value (Replacement Cost, Market Value, or Stated Value): \_\_\_\_\_

What limits of insurance are desired: \_\_\_\_\_

Do you want a deductible to be applied? Yes \_\_\_\_\_ No \_\_\_\_\_

Security method protecting the item: \_\_\_\_\_

Please attach a summary of your most recent 3-year loss history for this exposure:

**Please describe the type of coverage desired (i.e., property, liability, etc.). Describe the perils, which necessitate coverage i.e., theft, business interruption, fire, etc.**

\_\_\_\_\_  
\_\_\_\_\_

Please submit this written request to Risk Management and Tort Defense at the address specified above. We will evaluate your request and make a recommendation as to whether you do or do not need insurance based on your exposures, the limits of insurance that you should seek, and what alternatives are available.

\_\_\_\_\_  
Requestor Signature

\_\_\_\_\_  
Risk Finance Specialist

\_\_\_\_\_  
Risk Management Representative

**DEPARTMENT OF ADMINISTRATION  
LOSS PREVENTION SUGGESTION**

**TO: STATE RISK MANAGEMENT COMMITTEE**

**THROUGH: RISK MANAGEMENT REPRESENTATIVE**

**THROUGH: RISK MANAGEMENT AND TORT DEFENSE DIVISION**

DATE: \_\_\_\_\_

THE FOLLOWING SUGGESTION IS SUBMITTED FOR YOUR CONSIDERATION.  
(State the suggestion and the specific measures which lead to  
implementation. Also indicate why you think that this suggestion  
will prevent future losses from occurring.)

SUBJECT :

[illegible]

SUBMITTED BY: \_\_\_\_\_

NAME	DIVISION
------	----------

**ACTION TAKEN:**

[illegible]



STATE OF MONTANA  
RISK MANAGEMENT & TORT DEFENSE  
DEPARTMENT OF ADMINISTRATION  
PO BOX 200124 - HELENA, MT 59620-0124  
(406) 444-2421 FAX (406) 444-2592

REPORT OF INCIDENT

COMPLETE ONLY THE SECTION THAT APPLIES TO YOUR LOSS

VEHICLE ( ) PERSONAL INJURY ( ) PROPERTY DAMAGE / OR LOSS  
( )

Reporting Person:	Job Title:	
Department:	Division:	Phone:
Date/Time of Incident:	Location of Incident:	

VEHICLE LOSS

ACCIDENT INFORMATION

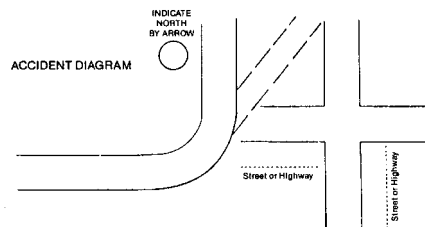
Were Police Notified? Yes ( ) No ( )	Police Department Name:	
Investigating Officer's Name:	Investigation Officers Phone Number	
Were Citations Issued? No ( ) Yes ( )	STATE Vehicle Driver ( ) OTHER Vehicle Driver ( )	
Weather Conditions: Clear? ( ) Rain? ( ) Snow? ( ) Other? ( ) Describe		
Roadway Conditions: Dry? ( ) Wet? ( ) Icy? ( ) Snow packed? ( ) Other? ( ) Describe		
Light Conditions: Daylight? ( ) Darkness? ( ) Dusk? ( ) Dawn? ( ) Other? ( ) Describe		
Vehicle Speed: STATE Vehicle? OTHER Vehicle?		
License No. _____ Est. Repair _____	Attachment No. _____ Est. Repair _____	Attachment No. _____ Est. Repair _____

Describe Accident/Incident in detail:

(Use blank paper for additional information)

Accident Diagram

INDICATE  
NORTH  
BY ARROW



Signature of Driver: Date:

STATE VEHICLE INFORMATION

Department Owning Vehicle:	Phone No.
Driver's Name:	Phone No.

For What Purpose was the Vehicle Being Used?								
Plate No.		VIN No.		Make/Model/Year:				
Location Where Vehicle May Be Seen (Address)?				Equip. No.				
OTHER VEHICLE INFORMATION								
Plate No./State:		VIN No.:		Make/Model/Year:				
Owner Name:								
Address:				Phone No.:				
Driver's Name:								
Address:				Phone No.:				
Insurance Co.:		Policy No.:		Phone No.:				
OCCUPANTS								
Name:		Address:		Age	State Veh.	Other Veh.	Injured Y - N	Describe Injury
WITNESSES								
Name:		Address:			Phone:			
PERSONAL INJURY								
Name of Injured:		Address:			Phone:			
Nature of Injury:								
Describe clearly how accident/injury occurred:								
(Use blank paper for additional information)								
PROPERTY DAMAGE / OR LOSS								
State Property (     )     Other (     )								
Describe clearly how property damage occurred:								
(Use blank paper for additional information)								
Property Description (Give make, model, serial number when applicable)								
(Use blank paper for additional information)								



Date	Reporting Person's Signature:
Date	Supervisor's Signature:
Date	Department Official's Signature:

**In Case of Accident Form**

(See the Risk Management Program Binder  
or the Division's website under the Claims section)

**CERTIFICATE OF INSURANCE**  
**Name of State Agency and Division**

This certificate is issued by the Department of Administration under the authority granted by Chapter No. 360, Montana Session Laws of 1977 to establish self-insurance plans. This certificate is issued as a matter of information only and confers no rights upon the certificate holder. It does not amend, extend or alter the coverage provided by the self-insurance program.

**This is to certify that the State of Montana through the Department of Administration provides the following coverage by Self-Insurance**

Kind of Insurance	Effective Date	Limits
Comprehensive	effective date	Per Person \$750,000
General Liability		Per Accident \$1,500,000
Automobile	effective date	Per Person \$750,000
Liability		Per Accident \$1,500,000
Automobile	effective date	
Comprehensive/Collision		ACV less \$250.00
Property Value	effective date	Replacement Cost
(Applies only to state owned property)		subject to the terms and conditions of commercial insurance

Coverage in accordance with the Tort Claims Act, Title 2, Section 9, Chapters 1-3, Montana Code Annotated for: (description of event/operations/locations/vehicles/property)

**Should any material change occur, the Department of Administration will endeavor to notify the certificate holder of such changes by mail at least thirty (30) days prior to such change, but failure to do so shall impose no obligation or liability of any kind upon the state.**

**ADDITIONAL INSURED YES ( ) NO ( )**

Date Issued:

By: \_\_\_\_\_  
Kristie Rhodes, Risk Finance Specialist  
Risk Management & Tort Defense Division

Name & Address of  
Certificate Holders

Name

Address

City, State, Zip Code

## **CHAPTER XII.**

### **BULLETINS**

# **CHAPTER XIII.**

## **CONTRACTS**

**CHAPTER XIV.**  
**SUPPLEMENTAL POLICIES**

## **CHAPTER XV.**

### **OTHER**